budget is so limited that it can hardly support prior commitments to senior investigators, young researchers may be virtually excluded from research funding. This phenomenon has become increasingly apparent over the past two or three years. Once discouraged because they are unable to get the funds to get started, young investigators drift off into other fields. Their training and talents for creative biomedical research may be lost to the American people for ever.

This brings me to a second related aspect of the recent changes in the funding of biomedical research and training. This is the decision by the Executive Branch to discontinue federal support for training grants for research physicians. The funds in question represent a relatively small proportion of the total NIH budget, but they have an impact on biomedical research both now and in the future far out of proportion to the sums involved. I have already pointed out the special role of young investigators in providing for innovative approaches to the problems of medical research. During their training period, these young investigators are directly responsible for the conduct of the research projects. They provide enthusiasm, creative approaches, and hard work; without them, ongoing research programs will suffer. Moreover, the training programs in question have been the source of most of the investigators now conducting major programs of research. The elimination of training funds has the gravest implications for our future ability to conduct health-related research. It is fatuous to suggest that trainees previously supported by federal training grants should now be supported by other means. Alternative means simply do not exist to support the number of individuals necessary to guarantee continuance of a varied program of biomedical research in the future. To take as an example my own department, federal training programs have supported 40 to 50 research trainees. By reallocation of internal and private funds, we hope to be able to support perhaps one quarter as great a number of young potential investigators.

Thus far, I have outlined some disastrous effects of cutbacks of direct research and research training support on the conduct of research today and the potential for research in the future. I should like to close by pointing out some of the indirect and less obvious effects on the education of physicians in general.

Elimination of training grant support and the decrement in direct research support will have a devastating effect on our ability to support faculty at medical schools. To use as an example my own Department of Medicine at Boston University again, we have been fortunate in receiving approximately $850,000 per year in training grant support, of which about $200,000 supports part of the salaries of about 30% of my key faculty. The size of the faculty in the Department of Medicine has remained approximately stable during a growth in medical school class from 70 to nearly 140 in five years. This increase in class size was undertaken to meet the national goal of increased production of physicians. Since the faculty who spend part of their time supervising research devote the bulk of their effort to teaching and related duties, the impact of loss of salary support for those key faculty members is evident. I should stress that these same faculty teach not only physicians destined for academic careers but all our Boston University students, the majority of whom have for many years entered careers in the practice of medicine. For a private school with a modest endowment there is no hope of replacing this substantial source of faculty support. The end of these grants can only mean a cutback in faculty and hence in the quality of medical education as a whole.

I hope that the Congress and specifically you as a Representative of a State which has always stood for the finest in medicine and has been a world-leader in the training of medical teachers and researchers will be sympathetic to continued support of these vital medical faculty and trainees, and will press for the restoration of training grants and improved funding for biomedical research in general.

I thank you for the opportunity of speaking to you about these vital matters today.

IS COLLEGE FOR YOUR CHILDREN?

HON. EDWARD J. DERWINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Monday, May 14, 1973

Mr. DERWINSKI. Mr. Speaker, from time to time, the Suburban Life features a column in which various staff members contribute their own individual viewpoints. I am pleased to insert into the RECORD a very practical and, I believe eminently correct, commentary by John Mars of the Suburban Life staff:

IS COLLEGE FOR YOUR CHILDREN?

(By John Mars)

There now is a crisis in the unemployment market. It's created by an over-abundance of so called educated persons or college graduates. The educational system as it is today continues to greatly overstress the need for higher education.

When I was in high school I went through the painful mesh of directing my goals toward more education.

From what I heard and understood to be the truth from parents and counselors, which is about the same, to get a better job and more money you had to go to college. This may have proved wrong.

According to 1973 figures, for years 1973 to 1977, tomorrow's No. 1 manpower or womanpower demand will be the greatest for stenographers and secretaries.

Positions to be filled annually will require 247,000 secretaries, 131,000 retail salespeople, 111,000 hospital attendants, 89,200 mechanics, 74,000 bookkeeping workers, 69,000 registered nurses, 67,000 waiters and waitresses, 64,000 cashiers and 61,000 typists.

These are the nine big areas. Judging from the figures, the most openings and good paying jobs should be found through manual labor. Being able to use your hands more than your mind is the trend. I now think I was misled in high school.

If I would have know all the pain, money and frustration that I would face before and after college, I doubt now, after the fact, that I would have attended.

My college years cost me $36,000. I averaged spending over $2,000 a year attending a state university. This includes books, clothes, rent, food, insurance, car expenses and tuition. Multiply that $2,000 by four years and it's $8,000. Even then a college degree costs relatively little.

Also add how much I would have made, working a manual labor job averaging, say, $7,000 a year with overtime.

Multiply that by four years away at school and it's $28,000, total $36,000.

Now that I'm out in the "real world" I face a debt of $6,000.

I do not want any "that's too bad" remarks, but it is too bad. Not only for me but for people in similar situations.

The American educational system with all its fantasies and illusions has somehow brainwashed a sizable amount of people who are now pounding the streets for jobs—the grads. Why has this situation happened?

If you think it's easy finding a job now with a degree, you're wrong. Of course, unless you know the right people or are in the right place at the right time.

But what about those that only have 16 years of schooling and no connections and are not at the right place at the right time? Pity the poor fumbling idiots, right?

My advice to parents and teachers is to quit hammering young adults with the beliefs that higher education yields a key to success. It might, but then again, I doubt it.

If I were a parent, I'd "aim" my children toward fulfilling their own goals with their own minds. Let them lead a life not surrounded by uncontrollable pressures to get ahead in the world.

Education is a great tool to understanding ignorance. That I now know. But ignorance is also a tool that can destroy an educated mind and leave you feeling cheated.

SENATE—*Tuesday, May 15, 1973*

The Senate met at 12 o'clock noon and was called to order by Hon. ROBERT T. STAFFORD, a Senator from the State of Vermont.

PRAYER

The Chaplain, the Reverend Edward L. R. Elson, D.D., offered the following prayer:

"Dear Lord and Father of mankind,
Forgive our foolish ways;
Reclothe us in our rightful mind,
In purer lives Thy service find,
In deeper reverence praise.

"Drop Thy still dews of quietness,
Till all our strivings cease;
Take from our souls the strain and stress,
And let our ordered lives confess
The beauty of Thy peace."

—WHITTIER.

In this spirit and by Thy grace may we serve Thee and this Nation.

In Thy holy name we pray. Amen.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. EASTLAND).

The assistant legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, D.C., May 15, 1973.

To the Senate:

Being temporarily absent from the Senate on official duties, I appoint Hon. ROBERT T. STAFFORD, a Senator from the State of Vermont, to perform the duties of the Chair during my absence.

JAMES O. EASTLAND,
President pro tempore.

Mr. STAFFORD thereupon took the chair as Acting President pro tempore.

AUTHENTICATED U.S. GOVERNMENT INFORMATION GPO

THE JOURNAL

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the reading of the Journal of the proceedings of Monday, May 14, 1973, be dispensed with.

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

COMMITTEE MEETINGS DURING SENATE SESSION

Mr. MANSFIELD. Mr. President, I ask unanimous consent that all committees may be authorized to meet during the session of the Senate today.

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

VETERANS' ADMINISTRATION PHYSICIAN NEW PRESIDENT OF AMERICAN COLLEGE OF PHYSICIANS

Mr. SCOTT of Pennsylvania. Mr. President, a distinguished constituent of the Commonwealth, Dr. Truman G. Schnabel, Jr., was recently elected president of the 21,000-member American College of Physicians at the annual meeting of this international specialty society held in Chicago. Dr. Schnabel is chief of the medical service at the Veterans' Administration Hospital in Philadelphia and also professor of medicine at the University of Pennsylvania School of Medicine.

This is the first time a VA physician has been named president of the organization, although Dr. William S. Middleton, former VA chief medical director, was president of the ACP before his appointment to the Veterans' Administration.

The American College of Physicians was founded in 1915 to maintain and advance the highest possible standards in medical education, medical practice, and clinical research. Much of its work is directed to the continuing education of its members at medical schools and teaching institutions, and the publication of Annals of Internal Medicine. Its meetings comprise forums for the exchange of medical information by practicing, teaching, and research physicians.

Dr. Schnabel was appointed to his present VA position in February 1973. He had served the Philadelphia VA hospital as a consultant since 1954. He was graduated from the University of Pennsylvania School of Medicine in 1943 and most of his professional career has been with the University of Pennsylvania and the Philadelphia General Hospital. Dr. Schnabel achieved full professorial rank in 1963. Recently, he has devoted much of his energy to the field of medical education to which he has made distinguished contributions.

PENJERDEL REAFFIRMS TOCKS ISLAND SUPPORT

Mr. SCOTT of Pennsylvania. Mr. President, it is my pleasure to report that the Penjerdel Corp.'s reevaluation of Tocks Island conservation project has been completed. The nonprofit Penjerdel Corp. is an affiliate of the Greater Philadelphia Chamber of Commerce. It encompasses the many important economic enterprises in the three-State Pennsylvania, New Jersey, and Delaware region surrounding and oriented toward the city of Philadelphia.

Together these great enterprises represent a huge segment of our economy and workforce, productively employing hundreds of thousands of people, and sustaining the millions of citizens dependent upon the waters of the Delaware River. Aware of this critical dependence, the 70-member Penjerdel Environmental Improvement Committee last summer launched a reevaluation of the congressionally authorized Tocks Island project, for conservation of those waters for all public purposes—including needed domestic, municipal, and industrial water supply, public energy supply, flood protection, and water recreation.

In addition to consulting other recent Tocks Island preconstruction reevaluations, this prestigious committee also met with representatives of both Government and nongovernment groups concerned with this matter, including environmentalist groups. After "reevaluation of both the positive and negative aspects of Tocks Island project" the Penjerdel Environmental Improvement Committee now "reaffirms its continued support." Its report concludes:

The economic, social, and environmental benefits of the Tocks Island project outweigh any adverse environmental impact.

The human values of flood control and water supply are substantial.

It is imperative that the Delaware Valley have an adequate water supply to meet the needs of the public, as well as industrial plants and public utilities—elements of our society of vital concern to us all.

The agencies involved in developing the Tocks project have asserted that the expertise is available to avoid, minimize, or compensate for the anticipated adverse effects and that this will be done.

The valid issues raised should serve to accentuate the need for continuing efforts to best solve the remaining problems, but further delay—of Tocks Island project—is neither prudent nor justified.

Mr. President, the Environmental Improvement Committee's report underscores the basic importance of this authorized conservation project to the human environmental needs of the area. I ask unanimous consent that the report, and its bibliography, be printed at this point in the RECORD.

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

SUPPORTING THE TOCKS ISLAND DAM AND RESERVOIR PROJECT AND THE DELAWARE WATER GAP NATIONAL RECREATION AREA, MARCH 29, 1973

The Greater Philadelphia Chamber of Commerce has recently completed a reevaluation of both the positive and negative aspects of the Tocks Island Project and reaffirms its continued support.

On four occasions in the past twenty months the Chamber's Environmental Improvement Committee has voiced its support for the multipurpose project consisting of the Tocks Island Dam and Reservoir Project and the Delaware Water Gap National Recreation Area. This support has been based on its acceptance of the validity of evaluations made or supported by such authoritative sources as the U.S. Corps of Engineers, the Delaware River Basin Commission, the United States Congress, the President's Council on Environmental Quality, and numerous other State and Federal agencies, to the effect that for the area it would accomplish the following (not listed in an order of priority):

1. Provide protection against damaging floods.
2. Meet increasing needs for municipal and industrial water supply.
3. Augment river flow in dry periods.
4. Supply needed electricity for a populous region.
5. Meet increasing outdoor recreation needs in the Northeast.

The Chamber has recognized the validity of certain environmental and economic questions raised regarding related issues, including:

1. Acceleration of area growth with resultant problems for financing highway improvements, for handling influx of people to the recreation areas, and associated problems.
2. Control of river and reservoir pollution.
3. Control of eutrophication of the reservoir.
4. Reservoir draw-down effects to control drought.
5. Need for flood plain and land use controls.
6. Feasibility of some alternatives to accomplish project objectives.

The persistence of opposition to the project from various quarters and the emergence of additional information has led the Chamber to conduct informal briefings with representatives of responsible groups on both sides of the question in order to update its position. Four such meetings were conducted by a task force appointed by the Environmental Improvement Committee between September 18th and December 6, 1972 to hear the comments of the following persons: Col. Carroll D. Strider—District Engineer, U.S. Army Corps of Engineers; Paul Felton—Executive Director, Water Resources Association/Delaware River Basin; Thomas Dolan—President, Environmental Planning and Information Center of Pennsylvania, Inc.; Harold Lockwood—Representing the Sierra Club and Save the Delaware Coalition; Dr. Ruth Patrick—Curator and Chairman, Limnology Department, Philadelphia Academy of Natural Sciences; and James F. Wright—Executive Director, Delaware River Basin Commission, accompanied by Robert L. Goodell—Chief of the Operations Branch.

In addition to the briefings and literature made available from these associations, statements and brochures from other sources have been consulted, as indicated in the bibliography on page 5.

It is not possible, in a project of the scope of the one at Tocks Island, to assert that it will cause no adverse effects, either social or economic or environmental. However, the Chamber is convinced that the economic, social and environmental *benefits* of the Tocks Island Project outweigh any adverse environmental impact. In this respect, we note that the *human* values of flood control and water supply are substantial. Recalling the recent Hurricane Agnes in the Susquehanna River basin we realize the disaster which could befall this area. We feel that the Tocks project will create fewer problems than the alternate solutions for flood control and water supply suggested by the opponents of the project.

The agencies involved in developing the Tocks project have asserted that the expertise is available to avoid, minimize, or compensate for the anticipated adverse effects and that this will be done. Moreover, Federal legislation, such as the recently enacted Federal Water Pollution Control Act Amendments of 1972, provides the basis for controls of non-point pollution sources as well as regional sewage systems.

While it is apparent that all of the problems have not yet been solved, the cost escalation attributed to delay, estimated at about

$35 million annually, is a cogent argument for proceeding with this project as soon as possible. No less compelling is the need to support the anticipated economic growth of this area with the resources available in power and water.

The importance of the dam in terms of the potential water supply, flood controls and hydroelectric power has been documented by the Corps of Engineers (See item 10 of bibliography). However, most of the plans for development of new electric power sources in the lower Delaware Valley are dependent upon the reliable sources of cooling water which can be achieved through the Tocks Island Dam Project.

It is imperative that the Delaware Valley have an adequate water supply to meet the needs of the public, as well as industrial plants and public utilities—elements of our society of vital concern to us all.

Certainly the valid issues raised should serve to accentuate the need for continuing efforts to best solve the remaining problems, but further delay is neither prudent nor justified. Let's get on with the job.

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WILKES-BARRE, PA.—PROGRESS ON DISASTER RELIEF

Mr. SCOTT of Pennsylvania. Mr. President, on May 11, 1973, I presented a statement of my views to the Senate Public Works Subcommittee on Disaster Relief during field hearings in Wilkes-Barre, Pa.

I ask unanimous consent to have my statement printed in the RECORD.

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

STATEMENT OF SENATOR HUGH SCOTT, SUBCOMMITTEE ON DISASTER RELIEF, U.S. SENATE COMMITTEE ON PUBLIC WORKS, WILKES-BARRE, PA., MAY 11, 1973

Mr. Chairman, I very much appreciate this opportunity to present my views on the disaster relief effort in Pennsylvania and on proposals to improve it. More than that, however, I want to thank you for holding this hearing in Wilkes-Barre, the city which sustained the heaviest damage in last year's flood. In the course of these hearings, over the next two days, you will hear from many Pennsylvanians who will tell of their first-hand experience and involvement in the flood relief program. This subcommittee would be well advised to consider very seriously the suggestions and criticisms these people make.

Nearly a year ago, tropical storm Agnes hit Pennsylvania with unprecedented fury. It was the worst natural disaster in the Nation's history. Forty-four Pennsylvanians were killed. Many thousands of homes were destroyed. Bridges were torn apart. Factories and businesses were wiped out. Thirty-five million dollars ($35 million) worth of growing crops were destroyed, in addition to millions of dollars in agricultural capital losses. Public utilities and services were cut. When it was over, realistic estimates placed the damage at a *minimum* of $1.5 *billion.*

In response, the Federal government—President Nixon, the Office of Emergency Preparedness and some thirty other agencies initiated a massive relief effort. The entire Commonwealth was declared a major disaster area immediately, thus triggering Federal assistance. The OEP opened field offices, individual assistance centers and mobile teams to direct and coordinate the Federal relief program. Of principal concern to the OEP were shelter and food and the restoration of public facilities and services. The Department of Housing and Urban Development brought in thousands of mobile homes to provide shelter. The Small Business Administration initiated its disaster loan service for both small businessmen and homeowners. The Department of Agriculture, in addition to operating its own emergency loan program for farmers, issued millions of dollars in free food stamps. The U.S. Army Corps of Engineers, having broad responsibility for emergency work, opened field offices and began to clear debris, repair and rebuild roads, bridges, sewer systems and other repairs to public facilities. These are the Federal agencies which carried the heaviest workload.

Once these administrative operations were underway. President Nixon and the Congress took to the legislative track. I, for example, proposed and had passed an emergency appropriation of $200,000,000 just days after the storm ended. These funds were used to provide broad measures of assistance to the Commonwealth and local governments as well as individual victims in the flood area. After several weeks of intense study, the President proposed the Agnes Recovery Act which, in addition to providing enormous Federal relief through appropriations, also proposed one percent disaster loans with the first $5,000 of such loans to be "forgiven"—that is, not to be repaid. I sponsored this bill in the Senate, along with a special aid program for nonprofit, private educational institutions, and within a matter of weeks President Nixon signed it into law.

The very fact that thirty Federal agencies were involved in the relief effort is enough to understand the basic deficiency of that effort. There was no one place where individuals could go for help. What was needed was a single location in the disaster area where sufficient personnel were made available to provide local citizens and public officials information concerning Federal disaster assistance in that area.

More specifically, the relief that was provided came through a multiplicity of vehicles designed for other purposes, and this led to inefficiency, confusion and waste. Each agency that was charged with providing a particular aspect of relief operated within its own legislative framework of rules and regulations. This, in itself, militated against efficient coordination of the recovery effort. A stern Federal taskmaster would have been welcome from the beginning. Furthermore, the categorical grant requirements of the myriad Federal programs involved prevented the rational allocation of government relief funds.

By far, the Federal agency having the most people-to-people contact, in the disaster recovery effort is the Small Business Administration. Under the law, it is charged with administering the disaster loan program for both small businessmen *and* homeowners. I have felt for some time that homeowners loans ought *not* to be a function of SBA, and the Senate Committee on Banking, Housing and Urban Affairs apparently shares my view. In its report last year on the disaster relief program, it noted "that particularly with regard to disaster relief loans to homeowners that SBA's responsibility in disasters often results in the agency's inability to efficiently handle its primary duty of assisting small business." The report went on to say that the Committee was prompted "to feel that the function of handling homeownership disaster loans might well be placed as the responsibility of an agency that has more expertise in that area."

In addition, SBA's own regulations fostered inequities in the loan program and caused dissension in the community when one person, for example, finds out that estimates or requirements given him were substantially different as applied to another person. Loan applications required entirely too much unnecessary background material, and this inevitably caused delay. I am aware, that in filling out these applications, many of our elderly citizens were not advised of the law's provision for the suspension of loan principal payments. To me, this is very sad, because the elderly are really the least able to cope with the financial burdens resulting from the flood.

The Small Business Administration has also had its communication and coordination problems with local redevelopment authorities. For example, the SBA would approve a home loan or a small business loan, the work would be done (or at least underway) and the local redevelopment authority would then acquire the property for urban renewal. Obviously, the public is not being well-served in such circumstances. A similar problem exists with respect to site relocations. I have seen instances in which a loan applicant, whose property was not fully destroyed, wanted to relocate out of the flood plain. He was told that regulations prohibited such benefits unless damage was total. Here again, public policy was less than rational.

Several years ago, a Presidential Task Force on Federal Flood Control Policy recommended that the Government "support consideration of relocation . . . as an alternative to repetitive construction." Specifically, the SBA was even asked to consider modifying its regulations "to require consideration of possible relocation as a qualification criterion for loans." Perhaps the latter recommendation would work a hardship on many individuals, but in those cases in which relocation has been both requested and recommended, the SBA ought to provide maximum assistance.

There is already in effect an SBA regulation which prohibits future flood disaster assistance on abandoned property in flood disaster-prone areas. However, if people are not being given the necessary help to relocate, they are trapped by their own inability to move. People must be encouraged, wherever possible, to leave the flood plain. Local communities should similarly be required to adopt a coherent land use policy. Of course,

care should be taken when granting relocation aid involving moves of unreasonable distance. Relocation should take place in the same geographical area. The Government could also provide tax incentives for the relocation of obsolete or hazardously located property, perhaps with limits on the number of times disaster deductions may be claimed for properties in hazard areas. This might be one way to achieve a desired goal.

The Department of Housing and Urban Development, although not in the disaster loan business, has had urban renewal coordination problems with local redevelopment agencies as well as with the SBA. There simply is no program for a complete disaster recovery effort, although there is a tremendous need for one especially in the Wilkes-Barre area with 156 municipalities. Not enough monies are available to them to fund the acquisition of a great many damaged properties, for the cost of rehabilitation far exceeds the original worth.

The current HUD moratorium on the construction of new housing has worked a special hardship in the Wyoming Valley area, especially among indigent and elderly citizens. Some consideration ought to be given to ending the moratorium in the face of a disaster recovery situation. As a general rule, though, HUD will have to come up with a cheaper, and either more easily stockable or more easily transportable form of emergency housing. Certainly, in the interest of economy and the speedy return of disaster victims to their homes, HUD must provide more funds for the rehabilitation of homes. Also, an extension of the law's one-year rent free emergency housing ought to be considered for the indigent and the elderly.

One particular case I have encountered with respect to HUD's involvement in property acquisition concerns the local development authority's purchase of some property on the flood area. The authority is permitted under HUD procedures to pay the landowner pre-flood value for his property. The Office of Emergency Preparedness and the authority are asking HUD to change its procedures to, in some cases, allow the authority to purchase a flood-damaged building and the land at pre-flood values and then sell the land after demolition and debris clearance back to the original owner. The existing HUD procedures do not permit former owners to redevelop. This is exactly the type of problem which will have to be addressed in the development of future disaster relief legislation.

Through the Department of Agriculture, the Farmers Home Administration provides a number of services during disaster periods. Working closely with local farmers and the Pennsylvania Farmers' Association, I can recommend at least six changes in the relief program which would have a major and beneficial impact on the farmers' recovery.

1. Thought should be given to providing emergency funds for soil conservation service similar to funds made available to OEP during times of flood disaster.

2. The emergency feed grain program should be changed to include poultry and swine farmers during periods of emergency similar to that after the Agnes flood.

3. The workload problem of county offices of the Agricultural Soil Conservation Service and other agencies during periods of emergency needs to be given attention. In the future, when such an emergency arises, agencies should be given more flexibility to acquire temporary manpower needed to alleviate the workload brought on by such an emergency.

4. Consideration should be given for providing more help to cash crop farmers. Standing crops should be considered as inventory. Changes in both the law and regulations would alleviate this problem.

5. In order to be more equitable, future disaster relief should be based on percentage of loss, rather than a set amount such as $5,000 forgiveness in the current law. This would be especially important to farmers with large losses.

6. Consideration should be given to allow the Farmers Home Administration to provide farmers the same benefits the SBA gives nonfarmers. For example, the FHA should be able to refinance debt in addition to real estate, and should be able to give longer repayment periods to persons hit by flood disasters.

In the early hours of a disaster no one Federal agency is more important than the U.S. Army Corps of Engineers. It is their responsibility to clear away the debris, open the roads, restore bridge traffic, repair the sewer systems and restore other public facilities to maximum use under the circumstances. Their work must be successfully completed before a community can proceed to a full recovery effort.

However, the larger role of the Corps of Engineers is to provide flood protection. In the Susquehanna River basin, which includes Wilkes-Barre and the Wyoming Valley area, I believe that the flooding last year could have been greatly reduced if the necessary flood protection facilities had been in place in upstate New York. The dikes along the way toward the south only served to increase the velocity of the river water along the existing channel. I would continue to urge the Corps to expedite its studies of the basin so that an early determination can be made as to the need for additional flood protection facilities. In the meantime, the Corps should repair those dikes which are absolutely necessary for emergency flood protection.

One problem that has been brought to my attention concerns possible Corps negligence on private property. Perhaps some consideration ought to be given to providing property owners with an additional degree of protection against any damage caused by the Corps in the course of its work. In addition, it would be wise to have the Corps coordinate its activities more closely with local redevelopment authorities, SBA and HUD. If additional flood protection will not be provided by the Corps, for one reason or another, then these agencies should not embark on a massive repair program. Rather, all that should be necessary is full relocation assistance.

Provisions should also be made for immediate stream restoration in cases where such streams need to be restored because of the danger of future flooding. The Corps should establish guidelines, both for itself and for its contractors, to create better understanding and cooperation in the case of stream restoration. These guidelines should shed special light on the predicament in which farmers and private landowners find themselves after a flood.

The principal role played by the Internal Revenue Service during and after a disaster should be to provide immediate tax assistance to persons and businesses suffering losses. This was done, I believe, to everyone's satisfaction. However, the law's provision for $5,000 forgiveness caused a great deal of confusion among persons receiving such benefits, because of the IRS ruling that such forgiven portions of loans were subject to taxation as ordinary income. I even introduced a bill to exclude these grants from taxation.

The IRS has attempted to clarify this confusing situation, but too many people apparently do not understand the rationale behind their ruling. I would suggest a total revision of the tax law insofar as casualty losses are concerned in order to provide maximum tax advantage to persons faced with disaster damage and loss. Perhaps an approach which takes into consideration the cost of a replacement item versus the original cost of the property might be workable. Certainly the IRS should consider the appreciation in value of property along with the actual cost of replacing it.

One particularly crucial problem has arisen with respect to the IRS treatment of certain farm losses. In a recent ruling, the IRS disallowed as a flood loss item the cost associated with seed and fertilizer *in the ground*. If such property were in storage, a loss could be claimed, they said, but once it is in the ground, the loss is disallowed This is a real inequity and it ought to be corrected immediately.

There are a number of things which the Federal government can do, on its own, in a disaster to ease the recovery effort. I think I have covered quite a few of them in my statement. However, some particularly sensitive problems do arise which should command special attention.

With respect to contractors hired by both the government and private citizens, some mechanism ought to be set up to prevent, as much as possible, shoddy work and fraudulent claims. Contractors should be required to register with some government authority in order to be eligible for flood related work. There simply has to be some sort of accountability here in order to prevent abuses, such as price gouging on necessary work.

Consumer protection units should be placed in immediate operation to advise individuals of their rights under the law and to protect them from the few unscrupulous government or business personnel who might seek to take advantage at a critical time for personal gain. Sufficient legal aid must be made available to handle this job well.

Consideration should be given to the imposition, by the government, of limited emergency controls on prices, wages, rents and interest rates. I fully realize that such controls have their drawbacks and tend to disrupt the normal economic exertions of supply and demand. However, to prevent a potentially chaotic situation, some controls are necessary.

Application forms for loans or material assistance should be as free of red tape as possible. There have been too many instances of delay because of long, drawn-out application procedures. Help must be provided as quickly as possible, with a minimum of prerequisites.

The Federal, state and local governments must begin working now to delineate the responsibilities each one has to assume during a disaster. Every minute lost arguing over jurisdictional questions at critical times could be catastrophic. The time for such advance planning is *now*.

In a recent message to Congress on the need for a better Federal program of disaster assistance, President Nixon noted that the "responsibility for relief is presently too fragmented among too many authorities. At the Federal level, disaster relief should be managed by a single agency." I couldn't agree more. In fact, I voiced those same sentiments five months earlier on the Senate floor when I introduced my own bill to streamline Federal disaster assistance. I subsequently introduced another bill to allow relocation assistance to individuals and businesses acquired for certain Federal projects, while waiving the residency and occupation requirements of the law. HUD's urban renewal projects currently enjoy such benefits, and my bill will extend them to other Federal agencies' projects.

The single most important piece of disaster-related legislation pending in Congress now is the National Catastrophic Disaster Insurance Act of which I am a sponsor. The bill proposes a national disaster insurance fund—the pool from which all disbursements for claims will come. The funding formula would be in three parts: First, all property insurance policyholders would pay a small surcharge on property and liability insurance premiums. Second, there would be a 1-percent charge on all repayments to the Small Business Administration and the Farmers Home Administration of their outstanding disaster recovery loans. Third, congressional appropriations would make up the balance. However, the initial appropriation would be $1 billion, which would be repaid at a later date to the Treasury when the National Disaster Insurance Fund reached a sufficient

level of reserves. Of particular importance to Pennsylvanians is the retroactive nature of this bill.

President Nixon, in his message to Congress, pledged: . . .

"to improve the delivery of Federal assistance, to provide a more equitable basis for financing individual property losses, and to forge a more balanced partnership for meeting disasters headon—a partnership not only among governments at all levels but also between governments and private citizens. The Federal government would continue to assist with financing, and State and local governments would have far more latitude and responsibility in the use of those funds. For homeowners, farmers and businessmen, who have suffered disaster losses, the Federal government would continue to provide direct assistance."

It is certainly my hope that a catastrophic disaster insurance plan can be a part of this Federal effort.

In conclusion, I want to emphasize that the overall Federal response to last year's floods have been overwhelming. Without it, the Wyoming Valley would never have survived. So whatever criticisms I have had of the Federal operation should be viewed more as procedural criticisms than as structural criticisms. More Federal attention must be paid to the expected response of state and local officials. In retrospect, this can be seen as the weakest link in the chain.

One final word must be said about the tremendous cooperation that existed, and continues to exist, among all the members of the Pennsylvania delegation in Congress. In the last twelve months we have all pulled together to assist in a total Pennsylvania recovery effort. Special praise, however, must go to Representative Dan Flood from Wilkes-Barre. Without his persuasion, influence and good humor, much of what has happened to revive the Wyomong Valley might not have happened. He deserves the gratitude of all Pennsylvanians.

Mr. Chairman, I know full well that the legislative jurisdiction of the Senate Committee on Public Works does not extend to all of the problems and areas I have touched on today. But I hope that I have given you some idea as to the complexity of the Pennsylvania disaster so that you, and the Congress, can work out a legislative solution that will be comprehensive and effective for an indefinite period. Piecemeal legislation will not get the job done.

Thank you again for allowing me this opportunity to present my views.

ORDER OF BUSINESS

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

Mr. SCOTT of Pennsylvania. Mr. President, I suggest the absence of a quorum.

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

The second assistant legislative clerk proceeded to call the roll.

Mr. HARRY F. BYRD, JR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

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

Mr. HARRY F. BYRD, JR. Mr. President, under the previous order, the distinguished Senator from Illinois (Mr. STEVENSON) had reserved time to speak, he to be followed by the Senator from Virginia now speaking. I ask unanimous consent that the order of recognition be reversed.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered. The Senator from Virginia and the Senator from Illinois will be recognized in the reverse order.

AID TO NORTH VIETNAM

Mr. HARRY F. BYRD, JR. Mr. President, I have received from the American Legion, Springfield Post 176, of Springfield, Va., a resolution opposing U.S. economic aid to North Vietnam. It is a well written resolution and is attested to by the adjutant, C. Earle Palmer, and the commander, James H. Daley.

The resolution was adopted May 10, 1973. I ask unanimous consent that it be published in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER (Mr. HATHAWAY). Without objection, it is so ordered.

(See exhibit 1.)

Mr. HARRY F. BYRD, JR. Mr. President, I invite the attention of the Senate to the resolution because I think it important that attention be focused on the proposal to take American tax funds and send them to North Vietnam.

I note in the New York Times of Friday, May 11, 1973, that William H. Sullivan, a senior American negotiator with North Vietnam, said—

That while Hanoi officials strongly desired foreign economic aid, they were suspicious of any multinational programs because "they don't trust the Russians or Chinese any more than they do the United States."

Even though they do not trust the United States, they are willing to take American tax dollars. I, for one, am not willing to give American tax dollars to the North Vietnamese. I do not believe the American people want their dollars taken out of the pockets of hard-working wage earners to be turned over to the aggressors in Hanoi.

I desire to have the RECORD show that I shall strongly oppose any proposal to take tax money from the people of the United States and send it to North Vietnam.

Mr. President, I also ask unanimous consent that the New York Times article be printed in the RECORD.

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

(See exhibit 2.)

EXHIBIT 1

THE AMERICAN LEGION,
SPRINGFIELD POST 176,
Springfield, Va.

RESOLUTION—CONCERNING AID TO NORTH VIETNAM

Whereas, On occasions, the United States of America has had to use force against those who chose by force to deprive others of their freedoms; and

Whereas, In the pursuit of preserving democracy, it has been necessary to render ruin to many institutions, facilities and homes in the countries of our enemies, with such ruin being rendered by design or accident; and

Whereas, It has been the policy of the United States of America to help rebuild nations following cessation of hostilties with, and compliance with post-conflict agreements by, those nations; and

Whereas, Communist North Viet Nam, reportedly, has repeatedly broken the cease-fire agreement since 27 January 1973 and is apparently still promoting active aggression in Southeast Asia, especially in the Republic of Cambodia, for the sole purpose of promoting World Communism; now, therefore, be it

Resolved, That the membership of Springfield American Legion Post 176, regularly convened on 7 May 1973, request that there be no consideration of appropriation, diversion or transfer of U.S. funds for the purpose of rebuilding any institution, facility or home in North Viet Nam until North Viet Nam has shown, beyond a doubt, that she is refraining from aggression, will abide by its cease-fire agreement, and will not attempt to impose Communism upon any individual against their will; and be it further

Resolved, That this resolution be presented to the Tenth District, Department of Virginia, American Legion, Convention on 10 June 1973 for their favorable consideration; and be it further

Resolved, That a copy of this resolution be sent to the President of the United States; Senators William L. Scott and Harry F. Byrd; and Congressmen Joel T. Broyhill and Stanford E. Parris.

EXHIBIT 2

HANOI DEEMED MISTRUSTFUL ON JOINT AID

(By Bernard Gwertzman)

WASHINGTON, May 10.—William H. Sullivan, a senior American negotiator with North Vietnam, said today that while Hanoi officials strongly desired foreign economic aid, they were suspicious of any multinational programs because "they don't trust the Russians or Chinese any more than they do us."

Testifying before the Senate Foreign Relations Committee, Mr. Sullivan said North Vietnam's need for American assistance was one of the factors that might motivate it to comply more fully with the provisions of the three-and-a-half-month-old cease-fire agreement in Vietnam.

Mr. Sullivan, Deputy Assistant Secretary of State for East Asia and Pacific Affairs, was a chief deputy to Henry A. Kissinger in the long negotiations and recently renewed talks in Paris. Today he appeared before the committee on his appointment as Ambassador to the Philippines.

Mr. Sullivan said that although there was "enormous suspicion" in Hanoi of multinational programs, there might be "conscious parallelism" in aid .

He said: "If the Chinese, for instance, built some narrowgauge railroad track for the North Vietnamese, the United States might supply railroad cars that would fit the track."

Senator J. W. Fulbright, chairman of the committee, got into several clashes with Mr. Sullivan over American policy in Indochina.

Mr. Fulbright said he hoped that Mr. Sullivan in his new post in Manila would not lead the United States into "a new Vietnam."

Mr. Sullivan assured him that he did not see anything comparable in the two countries. He said the insurgent problems in the Philippines were not of the same dimensions as those in South Vietnam.

Mr. Fulbright indicated that despite his differences, not only with Mr. Sullivan, but with two other appointees, Graham A. Martin, Ambassador to South Vietnam, and G. McMurtrie Godley, as Mr. Sullivan's successor, he would not try to block their confirmation

Yesterday, Mr. Fulbright suggested that while serving as Ambassador to Italy from 1969 until this January, Mr. Martin had recommended covert American funds to influence Italian politics.

Mr. Martin refused to discuss the matter, and when the hearings resumed today, Mr. Fulbright did not pursue the matter and excused Mr. Martin from further questioning.

Among other nominees heard today were Jack B. Kubisch, as Assistant Secretary for Inter-American Affairs; Robert J. McCloskey as Ambassador to Cyprus, and Philip V. Sanchez as Ambassador to Honduras.

RAIDS BY NARCOTICS AGENTS

Mr. HARRY F. BYRD, JR. Mr. President, the Lynchburg, Va., News of May 11, 1973, contains an excellent editorial concerning the raids made on two homes in Collinsville, Ill., by narcotics agents.

News accounts indicate that the agents involved in this case had no warrants and broke into private homes without knocking. They inflicted terror and abuse on innocent people in a manner that suggests the tactics of the Gestapo or the MVD.

Tactics of this kind cannot be tolerated. As the editorial states:

We look to government to protect us against the criminal. But who can we look to, to protect us against such government?

I ask unanimous consent that the editorial, entitled "Terror In The Night," be printed in the RECORD.

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

TERROR IN THE NIGHT

There are three things to keep in mind about the chilling incidents reported in the columns in the center of this page:

1—They are true.

2—They have happened before in this country.

3—They can happen again.

The story came to the attention of Sen. Harry F. Byrd Jr. when the Washington Star published it on Sunday, April 29, under an eight-column headline, "The Night Terror Came Knocking".

". . . It sends chills down one's spine," Senator Byrd told the Senate on May 3. "It is difficult to comprehend that this could happen in the United States." He reminded his colleagues that he had warned against the controversial "no-knock" law passed in 1971 which gives police officers armed with warrants authority to enter a dwelling without knocking or identifying themselves. Narcotics agents, in particular, wanted such a provision, explaining that under the law at that time, they had to knock and identify themselves, thus giving drug users and pushers time to flush drugs down the drain.

In the two Collinsville incidents, however, the narcotics agents did not even have warrants! Moreover, their treatment of the Giglotto and Askew families was uncalled for and reprehensible. Myles J. Ambrose, director of the Federal Drug Abuse Enforcement Program, and a special assistant attorney general, has ordered an investigation, stating that "if any Federal agents have acted improperly, appropriate action will be taken. Under no circumstances will I permit my agents to violate anyone's constitutional rights."

The brutal abuse his agents inflicted on these two families violates not only Constitutional rights but human rights as well. There is no excuse whatsoever for their arrogant, sadistic behavior. Those agents have no business working for the Federal Government and exercising its authority. They should be fired immediatedly, along with the supervisors who authorized the raids.

This is not the first time, unfortunately, that Federal agents have burst into private homes in the night, brandishing guns and refusing to identify themselves. A couple of years ago they shot and seriously wounded a man who tried to defend himself and his wife when a gang of armed, unkempt agents knocked down his door and refused to identify themselves. If this keeps on, somebody is going to be murdered by these thugs.

The Government must be forced to change such methods of operation. The people cannot permit them to behave like criminals in order to catch one. When it does, what difference does it make which is which?

We look to Government to protect us against the criminal. But who can we look to, to protect us against such Government?

We can look to ourselves and only ourselves. And the way to go about it is to demand that such practices be ended at once. If they aren't, we can elect candidates who will see to it that they are ended.

Government controls us every hour of every day of every year except for those few moments we are alone in the voting booths on election days. Then, and then only, are we completely free. If we have enough courage, enough will power, enough sense, we can protect ourselves and preserve our freedoms. Whatever we do, we have only ourselves to blame when terror comes knocking at the door the way it did that night in Collinsville.

ORDER OF BUSINESS

Mr. HARRY F. BYRD, JR. Mr. President, I suggest the absence of a quorum, the time for the quorum call to be charged to the Senator from Virginia.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The second 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 (Mr. HATHAWAY). Without objection, it is so ordered.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order for the recognition of Mr. STEVENSON be vacated.

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

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the order reserved for Mr. STEVENSON may be transferred to my control.

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

MEXICO-UNITED STATES INTERPARLIAMENTARY MEETINGS—APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. HATHAWAY). The Chair, on behalf of the Vice President, pursuant to Public Law 86–420, appoints the following Senators to the Mexico-United States Interparliamentary Meetings, Mexico, May 24–29, 1973: the Senator from Utah (Mr. Moss) and the Senator from Virginia (Mr. HARRY F. BYRD, JR.).

ORDER FOR ADJOURNMENT UNTIL 10:30 A.M. TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 10:30 a.m. tomorrow.

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

(Subsequently, this order was changed to provide for the Senate to meet at 11 a.m. tomorrow.)

Mr. ROBERT C. BYRD. Mr. President, I ask to be recognized on my own time now.

The PRESIDING OFFICER. The Senator from West Virginia is recognized.

ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that on tomorrow, after the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes, and in the order stated: Mr. BARTLETT, Mr. FANNIN, Mr. BELLMON, Mr. HANSEN, Mr. JOHNSTON, Mr. LONG, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

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 at the conclusion of the orders for the recognition of Senators on tomorrow, there be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

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

QUORUM CALL

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum. I ask that the time be charged against the time allotted and reserved to me.

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

The clerk will call the roll.

The second 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.

THIRTY-MINUTE RECESS

Mr. ROBERT C. BYRD. Mr. President, I move that the Senate stand in recess for 30 minutes and that the time consumed thereby be charged against the time allotted to me and to Mr. GRIFFIN and reserved to me under the order.

The motion was agreed to; and at 12:18 p.m. the Senate took a recess for 30 minutes.

The Senate reassembled at 12:48 p.m., when called to order by the presiding officer (Mr. HATHAWAY).

The PRESIDING OFFICER. Under the previous order, the Senator from Michigan has 12 minutes remaining.

Mr. MATHIAS. Mr. President, I ask unanimous consent, with the agreement of the distinguished Senator from Michigan, that the balance of the time allotted to him may be used by me.

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

POSITION OF APPROPRIATIONS COMMITTEE ON U.S. INVOLVEMENT IN LAOS AND CAMBODIA

Mr. MATHIAS. Mr. President, the Appropriations Committee of the Senate, has taken today a rather extraordinary action to limit U.S. involvement in

both Laos and Cambodia. This is a unanimous action of the committee. I think that this action reflects a growing perception in Congress and in the country with respect to the true situation in Cambodia.

The government forces there, known as Fank, have been widely believed to have 180,000 troops. This is a generally accepted figure. The Khmer Communists according to recent statements by DOD and the administration are said to have armed forces of 40,000 to 50,000 troops, supplemented by somewhere between 4,000 and 5,000 North Vietnamese raiders.

I think a more accurate perception of the 180,000 government troops, or Fank, is that the Lon Nol forces have really only about 30,000 maneuverable troops. The remaining 150,000 are in defensive roles and in varying degrees of readiness or capabiltiy. On the other side, the Khmer Communists are estimated by some authorities to be not 40,000 to 50,000, but there is reason to believe that 80,000 to 100,000 might be a more realistic figure.

In addition these approximately 80,000 troops are said by some authorities to be supplemented by some additional 20,000 service forces and by 100,000 guerrilla militia.

If these figures are correct as contended, we can understand better what is happening in Cambodia, that this is no mere unrest by a militant minority among the people. They are attacking all of the major cities of Cambodia, and are in possession of a number of provincial capitals and threaten the central capital of Phnom Penh itself; this is a major civil war.

I think that the fact that what is going on in Cambodia is a civil war is one of the perceptions which are bringing Congress to insist upon limiting the activities of the United States in that area. I think, as we review the continued bombing in Cambodia, we have to be rigorous in our understanding of its effects according to the press and some authorities the casualties inflicted by that bombing are very largely on civilians and to a negligible degree on troops. That is so because, as we are informed, by a recent Foreign Relations Committee study that the Khmer Communists are advised of the bombing targets well before they are designated, and as a consequence have been able to get their troops out of bombers' target areas.

The United States is in danger of getting itself involved in a civil war in Cambodia if the bombing is permitted to continue. That the war in Cambodia is a civil war is the kind of situation which we have to confront in very real and stark terms, and I am glad that Congress is finally facing the facts. The Congress now realizes that the United States should not make the mistake in Combodia, it made in Vietnam.

Mr. President, I am happy to yield the remainder of my time to the distinguished Senator from Nebraska.

Mr. CURTIS. Mr. President, I thank my distinguished friend from Maryland.

IMMUNITY SHOULD BE GRANTED WITH CAUTION

Mr. CURTIS. Mr. President, the Watergate affair is a bad mess which cannot be defended. I yield to no one in my desire for a thorough and complete unearthing of all the facts and the punishment of all violators of the law.

We are however, a government of law. Stability of the Government and ordinary justice demand that the judicial processes and the rules of evidence be faithfully followed. Hearsay, rumor, gossip, partial truths, innuendos, suspicions, and imaginations buoyed by self-interest have no place in the American system of justice, and to indulge in such is not in the public interest. We must not lose sight of the fact that evidence to be relied upon must be sworn to under oath and be admissible in a court of law.

Anyone who follows the news on Watergate is fully aware of the fact that the public is being fed much that must be classified as hearsay, rumor, gossip, partial truths, innuendos, suspicions, and imaginations buoyed by self-interest. To give credence to these busybodies will make a mockery of justice.

The offer of immunity to a wrongdoer who has violated the law may place before him a greater temptation than he can bear. To dangle before a law violator the promise that he may go scot-free if he involves someone else can be an obstruction of justice as wrong in its consequences as any conspiracy to obstruct justice which is perpetrated by actual law violators themselves.

The Select Committee on Presidential Campaign Activities should take judicial notice of the fact that for a law violator to testify in a manner to save himself from the penitentiary is an act of self-interest. The committee should also take judicial notice of the fact that it is common for all humans to blame someone else for their misdeeds. I do not suggest that the testimony of any witness be suppressed. I do say that the testimony of all witnesses must conform to the rules of evidence.

The Select Committee on Presidential Campaign Activities is the agent of the entire Senate. As such agent, its mission can be described in two words, "Do justice." Any other course would not serve a legislative purpose or any other appropriate purpose.

King Solomon, four centuries before the Golden Age of Greece, said it better than I can. He said:

> To acquit the wicked and condemn the righteous, both are abominable in the Lord's sight.

Mr. President, I yield the floor.

Mr. ROBERT C. BYRD. Mr. President, how much of my time remains?

The PRESIDING OFFICER. The Senator has 5 minutes remaining.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that all remaining time under 15 minute orders now be vacated.

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

TRANSACTION OF ROUTINE MORNING BUSINESS

The PRESIDING OFFICER. Under the previous order, there will now be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements therein limited to 3 minutes.

Mr. ROBERT C. BYRD. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. JOHNSTON). The clerk will call the roll.

The second assistant legislative clerk proceeded to call the roll.

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

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

Mr. CRANSTON. Mr. President, I ask unanimous consent that during consideration of S. 723 and S. 504, and during all votes thereon, Mr. Jonathan R. Steinberg and Louise Ringwalt of the Committee on Labor and Public Welfare be afforded the privileges of the floor.

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

QUORUM CALL

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

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

MESSAGES FROM THE PRESIDENT—APPROVAL OF A JOINT RESOLUTION

Messages in writing from the President of the United States were communicated to the Senate by Mr. Marks, one of his secretaries, and he announced that on May 14, 1973, the President had approved and signed the joint resolution (S.J. Res. 93) to provide a temporary extension of the authorization for the President's National Commission on Productivity.

EXECUTIVE MESSAGES REFERRED

As in executive session, the Presiding Officer (Mr. JOHNSON) laid before the Senate messages from the President of the United States submitting sundry nominations, which were referred to the appropriate committees.

(The nominations received today are printed at the end of Senate proceedings.)

EXTENSION OF PERIOD FOR THE TRANSACTION OF THE ROUTINE MORNING BUSINESS TODAY

Mr. STAFFORD. Mr. President, I ask unanimous consent that, at 1:10 p.m. today, the period for the transaction of routine morning business be extended an additional 15 minutes, with statements therein limited to 3 minutes.

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

PETITIONS

Petitions were laid before the Senate and referred as indicated:

By the ACTING PRESIDENT pro tempore (Mr. STAFFORD):

A joint resolution of the Legislature of the State of California. Referred to the Committee on Finance:

"ASSEMBLY JOINT RESOLUTION No. 13

"Relative to retirement compensation

"Whereas, In accordance with Public Law 92-603, the state's program of aid to the aged will become a federal program with state supplementation; and

"Whereas, Such supplemental income for the recipients' security could be misconstrued as simply public assistance to the elderly; and

"Whereas, There could perhaps be a certain stigma attached to the use of the title "Old Age Assistance or Pension"; and

"Whereas, Such a title certainly would not tend to build morale for our senior citizens, or others receiving such retirement compensation because of a disability not related to age; now, therefore, be it

"Resolved by the Assembly and Senate of the State of California, jointly, That the Legislature of the State of California respectfully memorializes the Congress of the United States to consider renaming this program "Citizens Retirement Income"; and be it further

"Resolved, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States."

A resolution of the House of the State of Maryland. Referred to the Committee on the Judiciary:

"HOUSE RESOLUTION No. 42

"House Resolution requesting the Congress of the United States to take appropriate legislative action to insure passage of a Constitutional amendment to restore prayer to our schools

"Whereas, since the Supreme Court ruling banning prayer in our classrooms the need for restoration of this daily declaration of dependence on the Almighty is apparent; and

"Whereas, the past decade of prayerlessness in our schools has witnessed an era of corrupting permissiveness where some of our young people have chosen a listless and purposeless life style supported by addictive drugs and other illicit activities; and

"Whereas, the basic roots of our country are planted in a firm belief of a Supreme Being and the requirement of prayer and thoughtful contemplation in our lives, reflecting the best that America stands for; and

"Whereas, only a concerted national effort can rectify the current situation and that first step must be taken at the Congressional level; and

"Whereas, Senator Schweiker has introduced the following joint resolution in the United States Senate in an effort to move our country in the direction of prayer in our classrooms once again:

"*'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein)*, That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"'ARTICLE —

"'SECTION 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public school or other public building which is supported in whole or in part through the expenditure of public funds, to participate voluntarily in nondenominational prayer or meditation.

"'SEC. 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.'; now, therefore, be it

"Resolved by the House of Delegates of Maryland, that this body requests the Congress of the United States to take appropriate legislative action to insure passage of a Constitutional amendment to restore prayer to our schools and to go on record as anxious to act on this amendment when it comes before this Legislature for ratification; and be it further

"Resolved, That copies of this Resolution be sent to the Speaker of the House of Representatives, the President of the Senate, Senator L. Schweiker, c/o U.S. Capitol, Washington, D.C. 20515.

"By the House of Delegates, February 14, 1973."

A resolution of the Senate of the State of Maryland. Referred to the Committee on the Judiciary:

"SENATE RESOLUTION No. 47

"Senate Resolution requesting the Congress of the United States to take appropriate legislative action to insure passage of a Constitutional amendment to restore prayer to our schools

"Whereas, since the Supreme Court ruling banning prayer in our classrooms the need for restoration of this daily declaration of dependence on the Almighty is apparent; and

"Whereas, the basic roots of our country are planted in a firm belief of a Supreme Being and the requirement of prayer and thoughtful contemplation in our lives, reflecting the best that America stands for; and

"Whereas, only a concerted national effort can rectify the current situation and that first step must be taken at the Congressional level; and

"Whereas, Senator Schweiker has introduced the following joint resolution in the United States Senate in an effort to move our country in the direction of prayer in our classrooms once again:

"'Resolved by the Senate and House of Representatives of the United States of America in Congress assembled, (two-thirds of each House concurring therein), That the following article is hereby proposed as an amendment to the Constitution of the United States, which shall be valid to all intents and purposes as part of the Constitution when ratified by the legislatures of three-fourths of the several States:

"'ARTICLE —

"'Section 1. Nothing contained in this Constitution shall abridge the right of persons lawfully assembled, in any public school or other public building which is supported in whole or in part through the expenditure of public funds, to participate voluntarily in nondenominational prayer or meditation.

"'Section 2. This article shall be inoperative unless it shall have been ratified as an amendment to the Constitution by the legislatures of three-fourths of the several States within seven years from the date of its submission to the States by the Congress.'; now, therefore, be it

"Resolved by the Senate of Maryland, That this Body requests the Congress of the United States to take appropriate legislative action to insure passage of a Constitutional amendment to restore prayer to our schools and to go on record as anxious to act on this amendment when it comes before this Legislature for ratification; and be it further

"Resolved, That copies of this Resolution be sent to the Speaker of the House of Representatives, the President of the Senate, Senator L. Schweiker, c/o U.S. Capitol, Washington, D.C. 20515.

"By the Senate, April 5, 1973."

A resolution of the House of the State of Maryland. Referred to the Committee on Labor and Public Welfare:

"HOUSE RESOLUTION No. 122

"House resolution requesting President Nixon and the Congress to fund, at least partially, certain higher education programs

"Whereas, The Congressional supporters of the Higher Education Amendments of 1972, which became Public Law 92-318, envisioned major functions and responsibilities with new authorizations for Comprehensive Statewide Planning (Section 1203), Community College Education (Title X, Part A), Occupational Education (Title X, Part B), and Improvement of Postsecondary Education (Section 404); and

"Whereas, P.L. 92-318 authorized significant appropriations for existing programs in Community Services and Continuing Education (Title I), Equipment for Undergraduate Instruction (Title VI), and Grants for Construction of Undergraduate Academic Facilities (Title VII); and

"Whereas, The Federal Budget for the 1974 Fiscal Year indicates that the community service, instructional equipment, and academic facilities grant programs are scheduled to be terminated; and

"Whereas, No funding is provided in the Federal Budget for FY 74 to implement any of the community college or occupational education authorities; and

"Whereas, It is the sense of the Maryland House of Delegates that the above-mentioned program terminations and lack of appropriations will have a deleterious effect on higher education in the State of Maryland and on American higher education generally; now, therefore, be it

"Resolved by the House of Delegates of Maryland, That the House of Delegates respectfully requests President Nixon and the United States Congress to take prompt steps to fund, at least partially, in the Federal Budget for FY 74, Titles I, VI, VII, X (Part A), X (Part B), and XII of the Higher Education Act; and be it further

"Resolved, That copies of this Resolution be dispatched to President Richard M. Nixon, 1600 Pennsylvania Avenue, N.W., Washington, D.C.; Vice President Spiro T. Agnew; the Honorable Carl Albert, Speaker of the House, Washington, D.C. 20515; the Chairman of the House Appropriations Committee and the House Education and Labor Committee; each member of the Maryland delegation to the United States Congress; and John Ottina, Acting U.S. Commissioner of Education, Washington, D.C. 20202.

"By the House of Delegates, April 5, 1973."

Resolutions of the Massachusetts State Senate. Referred to the Committee on Appropriations:

"RESOLUTION

"Resolutions memorializing the Congress of the United States to enact legislation to provide for the full peacetime utilization of appropriations, installations and persons released from defense-related employment

"Whereas, The people of the Commonwealth have yearned for peace in Southeast Asia and are now yearning for lasting peace; and

"Whereas, The President of the United States has successfully negotiated a ceasefire which is now in force in Vietnam; and

"Whereas, Peace justifiably leads to a steady reduction in defense-related employment, a process which is to be welcomed when it occurs; and

"Whereas, Citizens of the Commonwealth must be allowed the opportunity for productive gainful employment and not suffer the

financial and psychological trauma of unemployment; now, therefore, be it

"Resolved, That the Massachusetts Senate respectfully requests the Congress of the United States to enact legislation assuring every person released from defense-related employment as a result of closing military installations equivalent employment in activities related to constructive peaceful pursuits in the area in which he resides and that the full amount of the appropriation for the preceding fiscal year prior to closing of a defense installation be appropriated by Congress for the purposes stated herein; and be it further

"Resolved, That copies of these resolutions be transmitted by the Senate Clerk and Parliamentarian to the President of the United States, to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"Senate, adopted, April 23, 1973."

Resolutions of the General Court of the Commonwealth of Massachusetts. Referred to the Committee on Labor and Public Welfare:

"RESOLUTION

"Resolutions memorializing the Congress of the United States to enact legislation known as the Education for All Handicapped Children Act

"Whereas, There are more than four million children in the United States who are handicapped by the failure of public schools to meet their special needs, one million of whom are entirely excluded from public schools; and

"Whereas, Exclusion of such children and failure to provide them with adequate educational programs condemns them to hopeless, futile lives; and

"Whereas, The General Court of Massachusetts has recently enacted a law providing for a full-scale reform of the commonwealth's laws pertaining to children with special needs, with the aim of ensuring an adequate, publicly supported education to every child resident therein; now, therefore, be it

"Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact the pending bill, 'Education for All Handicapped Children Act', mandating and clarifying the educational rights of children with special needs and providing that the federal government underwrite seventy-five per cent of the excess costs required in educating such children; and be it further

"Resolved, That copies of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the presiding officer of each branch of Congress and to each member thereof from the Commonwealth.

"House of Representatives, adopted, April 17, 1973.

"Senate, adopted in concurrence, April 25, 1973."

A joint resolution of the Legislature of the State of Minnesota. Referred to the Committee on the Judiciary:

"RESOLUTION

"A resolution memorializing the Congress of the United States to propose a constitutional amendment affirming and protecting the value of human life

"Whereas, the United States Supreme Court has recently put on the United States Constitution a construction that is contradictory to the convictions of the people of the United States about the value of human life; now, therefore,

"Be it resolved, by the Legislature of the State of Minnesota that the Congress of the United States should speedily propose to the states for their ratification an amendment to the United States Constitution substantially in the following form:

"'ARTICLE

"'Section 1. No person shall be deprived of life, liberty, or property, from conception until natural death without due process of law, nor denied the equal protection of the laws; provided that this article shall not prevent medical operations necessary to save the life of a mother.

"'Sec. 2. The Congress and the several states shall have concurrent power to enforce this article by appropriate legislation.'

"Be it further resolved, that the Secretary of State of the State of Minnesota transmit copies of this resolution to the Speaker of the United States House of Representatives, the president of the United States Senate, the chairman of the Judiciary Committees of the United States House of Representatives and Senate and the Minnesota Representatives and Senators in Congress."

Resolutions of the Legislature of the State of Nebraska. Referred to the Committee on Appropriations:

"LEGISLATIVE RESOLUTION 66.

"Whereas, the Legislature in 1971 adopted Resolution No. 29 and adopted Resolution No. 51 recommending construction and development of Nebraska's O'Neill Unit and North Loup Division of the Pick-Sloan Missouri Basin Program; and

"Whereas, there is and will continue to be strong need to maintain, strengthen and enhance Nebraska's largest industry, Agriculture; and

"Whereas, local support for the North Loup and O'Neill projects has always been and remains strong; and

"Whereas, there is definite need in these project areas for surface irrigation water to maintain the declining ground waters; and

"Whereas, Nebraska's people need the fish and wildlife and recreational opportunities that can be provided by the O'Neill and North Loup developments; and

"Whereas, both of these projects are a part of the Framework Study of the Nebraska State Water Plan as adopted by the 1972 Legislature; and

"Whereas, both of these developments were authorized for construction and development by the 92nd Congress of the United States of America;

"Now, therefore, be it resolved by the members of the Eighty-Third Legislature of Nebraska, first session:

"1. That the First Session of the Eighty-Third Legislature of Nebraska strongly supports the construction and development of the North Loup Division and the O'Neill Unit.

"2. That the Legislature memorializes the 93rd Congress and the respective Appropriation Committees to provide funds for the Bureau of Reclamation in fiscal year 1974 to do advance and/or preconstruction planning.

"3. That copies of this resolution, suitably engrossed, be transmitted by the Clerk of the Legislature to the United States Senate and House of Representatives of the 93rd Congress, to Honorable John L. McClellan, Chairman of the Senate Appropriations Committee, and Honorable George H. Mahon, Chairman of the House Appropriations Committee, and to each member from Nebraska in the Senate and House of Representatives of the United States."

A concurrent resolution of the Legislature of the State of Oklahoma. Referred to the Committee on the Judiciary:

"SENATE CONCURRENT RESOLUTION NO. 53

"A concurrent resolution memorializing Congress to propose an amendment to the Constitution of the United States defining the word 'person' in relation to any stage of biological development, providing for any State to adopt laws necessary to preserve the life of an expectant mother and providing for Congress and the States to enact legislation to enforce the amendment; and directing distribution

"Whereas, the Oklahoma Legislature has supported and shown concern for the life of the unborn child by rejecting all attempts to liberalize, modify or change the state's abortion law; and

"Whereas, the United States Supreme Court has by decision ruled against the unborn; and

"Whereas, the Oklahoma Legislature wishes to define the rights of the unborn.

"Now, therefore, be it resolved by the Senate of the 1st session of the 34th Oklahoma Legislature, the House of Representatives concurring therein:

"Section 1. The Congress of the United States of America be and is hereby respectfully memorialized to propose an amendment to the Constitution of the United States, which shall provide as follows:

"1. As used in the Fifth and Fourteenth Articles of Amendment to the Constitution of the United States, dealing with the deprivation of life, the word 'person' shall apply to every human being regardless of the stage of his biological development.

"2. Nothing herein shall prohibit any state from adopting such laws as are necessary to preserve the life of the expectant mother.

"3. Congress and the several states shall have the power to enforce this amendment by appropriate legislation.

"Section 2. Authenticated copies of this resolution shall be forwarded to the President of the Senate of the United States, the Speaker of the House of Representatives of the United States and to each member of the Oklahoma congressional delegation."

A resolution of the Twelfth Guam Legislature. Referred to the Committee on Interior and Insular Affairs:

"RESOLUTION NO. 77

"Relative to expressing the consensus of the Legislature that the future of Sella Bay should not be determined by continued negotiations with the United States Navy but through direct people-to-people negotiations between the United States as administering power through its appointment of a special ambassador equivalent to the ambassador now dealing with the surrounding islands of the Trust Territory of the Pacific, and the government of Guam represented by a special commission composed of representatives of both the executive and legislative branches, the people of Guam having no objection to the relocation of the ammunition wharf at Apra Harbor nor to the U.S. Navy carrying out its legitimate defense role.

"Be it resolved by the legislature of the territory of Guam:

"Whereas, since the United States Court of Appeals for the Ninth Circuit has dealt a grave setback to the plans of the United States Navy to utilize, for an ammunition wharf, Sella Bay, Guam's last pristine and unspoiled coral reef environment, by its decision finding that the attempted transfer of the bulk of Sella Bay to the Navy violated territorial law because of the absence of concurrence by the Legislature to such transfer, and in view of the undoubted fact that a new ammunition wharf is needed, it is clear that a decision must now be made on how the people of Guam are going to continue to negotiate this issue with the Federal government, each side to respect the legitimate rights of the other; and

"Whereas, the Legislature believes that before determining such a negotiating stance, it is instructive to review the history both of Sella Bay itself and of the Navy's role as the largest landowner in the territory of Guam, and accordingly, the following precis is hereby presented:

"1. The Treaty of Paris whereby the United States of America acquired dominion over the island of Guam specifically required the Federal government to define the civil rights of the people of Guam, but the Congress failing in its responsibilities, instead delegated the entire governance of the island to the United States Navy, and accordingly, following the Treaty of Paris and until 1950, interrupted by a period of even more brutal dictatorship under the forces of Imperial Japan, the people of Guam lived under a

military dictatorship in which all decisions were made by the local Naval Commander who acted ex-officio as the Governor of Guam, the views, wishes and hopes of the people of Guam being deemed entirely irrelevant to the Navy's occupation of the island, their civil rights being non-existent and their political status being that of wards of a military regime.

"2. Following the Second World War and the reoccupation of Guam by the United States Navy, it was determined, again without consulting the people of Guam, that the island would be turned into a major U.S. defense base for both the Air Force and the Navy, and the Navy, being still the administering authority, at once set about obtaining all the land it thought would be conceivably necessary for this major defense role, and in doing so, used a technique consisting of a mixture of coercion and intimidation combined with appeals to the gratitude of the people of Guam for being rescued from the Japanese to obtain this supposedly needed land at literally give-away prices, enormous tracts being obtained for absolutely minimum payments, with the result that the Navy ended up owning together with other defense facilities in Guam, well over a third of the whole island, and by far the best and most valuable part, whole Guamanian villages being extirpated in the process, and entire communities relocated on miasmal and totally unsuitable property merely to clear for exclusive Navy use large, and now almost entirely empty, tracts of land.

"3. Although this land grab ceased in 1950 when limited self-government was given to the people of Guam and their access to American courts assured, the major damage had been done with the principal sites already obtained, and, indeed, the coming of civilian rule in no way changed the basic Naval attitude toward the people of Guam and the island itself as is evidenced by the continuing Naval prejudice against local residents, their refusing to permit joint use of local beach recreational facilities which should belong to the people of Guam, the refusal being based on racial discrimination, purely and simply, since the Navy always permits Caucasian school teachers and other such contract employees working for the government of Guam to use NCS beach and other Navy beaches but let a Guamanian or other dark skinned resident attempt to set foot on such a beach and he is immediately and summarily thrown off, it being clear, as Admiral Zumwalt himself had admitted, that the United States Navy is still an institution rife with racial prejudice.

"4. It is unappropriate, contrary to American tradition, and against the principles of international law for a military institution to negotiate with civilians with respect to land acquisitions during peace time. While no one can object that during the exigencies of a war, the U.S. Navy or any other military institution summarily utilized for military purposes civilian land, once the war is over and peace is declared, the role of the military does not include that of negotiating for land to be taken from the victims of the war, and thus while Custer and other American generals of his ilk and the United States Cavalry slaughtered the Plains Indians at Wounded Knee and other places, it was not they but special civilian emissaries from Washington who negotiated the final peace treaties with the defeated tribes; and

"Whereas, at the point of determining where the negotiations now stand it is imperative that the people of Guam consider Sella Bay and what is at stake, both ecologically, recreationally and culturally:

"1. Sella Bay is part of a 4,000 acre tract of pristine recreational land running from Nimitz Beach to Umatac; this land is unspoiled, is remarkably beautiful, and is culturally and historically of great significance, there being ruins of both Spanish and Chamorro usages of the area.

"2. The whole area is tied into the Fena Lake watershed, the most important watershed in Guam, and thus no disposition of the one should be handled without the other, as is evidenced by the findings of the environmentalists and park specialists from the National Park Service who recommended that the National Sea Shore Park include both the Fena Lake watershed and the Sella Bay locale since in that way the ecology of this unique union of volcanic soil with coral reefs can best be preserved.

"3. With Guam getting more and more tourists, particularly from Japan, it becomes essential to provide for both the tourists as well as for the growing Guam population a place where the unique tropical habitat of Guam is still unspoiled, and the Sella Bay area represents the last part of Guam in Civilian hands where this can be accomplished; and

"Whereas, neither the Legislature nor the people of Guam quarrel with the legitimate needs of the military forces in Guam nor is any argument raised that the ammunition wharf should not be moved from its present hazardous location the question is not whether the wharf should be moved but whether Sella Bay is its only possible point of relocation, some believing that the tip of Orote Peninsula, remote from the rest of the Naval Station, and where the effects from any blasting would be minimized by the high cliffs thereat, would be a suitable alternate location, particularly since it is already owned by the United States Navy and would not cost the Federal government nor the people of Guam anything in its acquisition; and, indeed, the people of Guam welcome the role the territory can play as a keystone of defense of the Pacific, even being happy to see an expansion of the bomb storage facilities in Guam, including nuclear weapons, if necessary to America's arsenal for defense, and thus the argument is not whether Guam should continue to play an important role in America's defense structure since this role is warmly supported by all of the people of Guam, nor whether the ammunition wharf should be relocated, nor whether major ammunition storage should continue on Guam, but solely whether Sella Bay itself is the proper locale for such a relocated ammunition wharf; and

"Whereas, in negotiating this question of where the ammunition wharf should be located, the people of Guam and the Legislature strongly resist and resent the methods used by the Navy in recent years in this matter since the legitimate and vital needs of the people of Guam for additional airport facilities, for school sites to educate both local school children and those of military dependents, and for power generating facility sites, where again the power generated will be used by both military and civilian consumers, should not be used as a club to force the people of Guam to swallow the loss of Sella Bay; the United States, as administering power of a possession which is not totally self-governing nor sovereign, has a duty to protect the interests of the people of Guam, this duty not only being a moral one but also spelled out in the international laws to which the United States is subject, as evidenced by the Charter of the United Nations, ratified by the United States Senate, and the Declaration of Human Rights promulgated by the United Nations as well as the Decolonization Mandate issued by the United Nations General Assembly, and all of these principles involving the relationship of a trustee power to the people under its trust strictly prohibit the type of negotiating attempted by the Navy where the people of Guam were told that unless they gave up Sella Bay, their last unspoiled seashore, they must also give up new school sites, a new site for a power plant, expanded airport facilities, and the other vitally needed land with which the Navy attempted to bait the Sella Bay trap; and

"Whereas, in considering the needs of the United States military within the island of Guam, the United States must also consider Guam's unique role as an outpost of American capital in this part of the Pacific as well as an educational center for all of the surrounding islands, and these two roles alone are of great significance in America's future in the Pacific and cannot be lightly laid aside solely at the behest of military considerations, and therefore in any review of military needs in Guam, the Federal government is obligated to examine all Federal land-holdings in the territory to make absolutely certain that additional civilian land is indeed required for an ammunition wharf; and

"Whereas, in view of the increasing normalization of the relationship between the Federal government and the territory, as evidenced by the recent amendments to the Organic Act permitting both a locally elected governor and a representative of the people of Guam to sit in the House of Representatives, any further attempt to settle military needs in Guam only through the efforts of local military commanders is inappropriate to this new relationship and calls in question once more Guam's real political status: Does it truly have self-government or is it still basically at the mercy of military policies in which it has no voice?; now therefore be it

"Resolved, that the Twelfth Guam Legislature does hereby on behalf of the people of Guam respectfully request and memorialize the President of the United States to appoint a special emissary of the nature of the emissary now negotiating with the people of the Trust Territory of the Pacific Islands, to handle the negotiations between the government of Guam and the United States with respect to Federal land-holdings in Guam, and whether additional civilian land is in fact needed for a military ammunition wharf, it being the consensus of all that the United States Navy is not a proper negotiating party in view of its history of predatory land-takings, prejudice and attempted blackmail, and that an emissary directly from the President, not associated with the past history of the exploitation of Guam by the Navy, would be in the best position of all to negotiate a fair settlement of both the Sella Bay issue as well as all other land matters pending involving the government of Guam and the government of the United States of America; and be it further

"Resolved, that in seeking such a special emissary, the patriotism and devotion of the people of Guam to the United States should in no way be questioned, this patriotism having been best exemplified by the recent conflict in Vietnam wherein the local people lost more sons on a per capita basis than any other American community, but is merely the desire to work out with our civilian mentors in Washington, Guam's best use of its limited local land resources in conjunction with legitimate Federal needs, the people of Guam believing that if the Micronesians, who never fought in America's wars and who have never suffered on America's behalf as have the people of Guam, are entitled to a special emissary from the President, so are the people of Guam, especially on a matter so essential to their future as that of the limited land now held in civilian control on this small island; and be it further

"Resolved, that the Speaker certify to and the Legislative Secretary attest the adoption hereof and that copies of the same be thereafter transmitted to the President of the United States, to the Secretary of the Interior, to the Secretary of Defense, to the President of the Senate, to the Speaker of the House of Representatives, to the Chairman of the Senate and House Committees on Interior and Insular Affairs, to the Washington Delegate, and to the Governor of Guam.

"Duly and regularly adopted on the 3rd day of April, 1973."

A resolution of the Legislature of the Virgin Islands. Referred to the Committee on Interior and Insular Affairs:

"RESOLUTION No. 679

"Resolution to Support Federal Legislation (H.R. 5461) Proposed by the Virgin Islands Delegate to the House of Representatives Providing for the Transfer of Ownership and Control of Water Island in the United States Virgin Islands to the Government of the Virgin Islands

"Whereas in 1952, the Federal Government, acting through the Secretary of Interior, leased the whole of Water Island, the fourth largest of the United States Virgin Islands, together with all improvements, beaches and riparian rights to a private corporation for an initial term of twenty years with an option to the lessee to extend such lease until 1992; and

"Whereas while the stated purpose of such lease was to encourage the development of Water Island in a manner as to contribute to the economy of the Virgin Islands; yet over the past twenty years it is difficult, even from the most objective point of view, to demonstrate how the development of Water Island primarily as a private residential area has contributed in any meaningful way to the betterment of the general welfare of the people of the Virgin Islands; and

"Whereas the Ninth Legislature of the Virgin Islands, prior to the renewal of the Water Island lease in 1972, enacted Act No. 3219 authorizing and directing the Governor of the Virgin Islands with the assistance of a special commission to conduct a comprehensive study of the legal, social, economic and physical conditions existing with regard to Water Island; and said Legislature, on April 1, 1972, adopted Resolution No. 620 petitioning the Secretary of Interior to take all steps necessary to transfer Water Island to the Government of the Virgin Islands at the expiration of the initial twenty-year term of the Water Island lease; and

"Whereas on April 14, 1972, the Acting Government Comptroller for the Virgin Islands submitted to the U.S. Department of Interior his Audit Report 'Lessees' compliance with provisions of lease for Water Island,' which report indicated that Water Island is and has been developed principally as a private housing complex; and

"Whereas it appears that the United States Department of Interior has, without official notice or explanation to the public officials and people of the Virgin Islands, agreed to extend the Water Island lease for an additional twenty years without change in the original terms and conditions of said lease; and

"Whereas the Virgin Islands Delegate to the House of Representatives has recently proposed legislation (HR 5461) in the United States House of Representatives which would, if enacted, authorize the United States Department of Interior to acquire all or part of the leasehold interest in Water Island and to ultimately transfer the ownership of Water Island to the Government of the Virgin Islands; and

"Whereas at a time when the fiscal condition of the Government and the economy of the Virgin Islands require strong support, when a substantial rate of unemployment continues, when new housing sites are badly needed, and when social and economic conditions produce tensions; it is of the utmost importance that the issues and allegations pertaining to the 'Water Island situation' be resolved quickly and equitably with the best interests of the people of the Virgin Islands and of the Federal Government strongly in mind; Now, Therefore,

"Be it resolved by the Legislature of the Virgin Islands:

"Section 1. That the Tenth Legislature of the Virgin Islands hereby fully supports the legislation (HR 5461) recently introduced in the United States House of Representatives by the Virgin Islands Delegate pertaining to the ultimate transfer of Water Island to the Government of the Virgin Islands.

"Section 2. That copies of this Resolution be transferred to the President of the United States, to the Secretary of the United States Department of Interior, to the Presiding Officer of the Senate of the United States, to the Speaker of the House of Representatives of the United States, to the Chairman of the Committee on Interior and Insular Affairs of the Senate of the United States and to each member of said Committee, to the Chairman of the Committee on Interior and Insular Affairs of the House of Representatives of the United States and to each member of said Committee, to the Virgin Islands Delegate to the House of Representatives, and to the Governor and Attorney General of the Virgin Islands.

"Thus passed by the Legislature of the Virgin Islands on April 5, 1973."

A resolution adopted by the 1973 Annual General Conference of the National Guard Association of Alabama, relating to legislation to grant certain GI bill of rights and privileges to members of the reserve components for satisfactory service as incentive for enlistment and reenlistment. Referred to the Committee on Armed Services.

A resolution adopted by the board of directors of the Society of Former Special Agents of the Federal Bureau of Investigation Inc., urging that immediate steps be taken to select a permanent Director of the Federal Bureau of Investigation. Referred to the Committee on the Judiciary.

A resolution adopted by the governing board. Grossmont Community College District, relating to confirmation of certain Health, Education, and Welfare appointments. Referred to the Commitee on Labor and Public Welfare.

Three resolutions adopted by B'nai B'rith Career and Counseling Services: The first relating to support career development, the second relating to providing funds for student aid in school tuition and supplementary career selection, and the third relating to education, training and job opportunities for women. Referred to the Committee on Labor and Public Welfare.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. McGEE, from the Committee on Post Office and Civil Service, without recommendation:

H.R. 6077. An act to permit immediate retirement of certain Federal employees.

By Mr. McGEE, from the Committee on Post Office and Civil Service, with amendments:

S. 1804. A bill to permit immediate retirement of certain Federal employees (Rept. No. 93–152).

EXECUTIVE REPORTS OF COMMITTEES

As in executive session, the following favorable reports of nominations were submitted:

By Mr. WILLIAMS, from the Committee on Labor and Public Welfare:

Bernard E. DeLury, of New York, to be an Assistant Secretary of Labor;

Arthur S. Flemming, of Virginia, to be Commissioner on Aging; and

Richard F. Schubert, of Pennsylvania, to be Under Secretary of Labor.

The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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

Norbert T. Tiemann, of Nebraska, to be Administrator of the Federal Highway Administration; and

Frederick B. Dent, of South Carolina, to be a member of the National Commission on Materials Policy.

The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

By Mr. MAGNUSON, from the Committee on Commerce:

Robert H. Morris, of California, to be a member of the Federal Power Commission; and

William L. Springer, of Illinois, to be a member of the Federal Power Commission.

The above nominations were reported with the recommendation that they be confirmed, subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

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. CHURCH:

S. 1811. A bill to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income. Referred to the Committee on Finance.

By Mr. McINTYRE:

S. 1812. A bill to improve the coordination of Federal reporting services. Referred to the Committee on Government Operations.

By Mr. DOMINICK:

S. 1813. A bill to amend the Act of September 30, 1950 (Public Law 874, 81st Congress) related to financial assistance for schools in areas affected by Federal activities to provide for a phasing out of certain entitlements under that Act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

By Mr. JAVITS (for himself, Mr. CRANSTON, Mr. HATHAWAY, Mr. KENNEDY, and Mr. RANDOLPH):

S. 1814. A bill to amend and improve the Adult Education Act. Referred to the Committee on Labor and Public Welfare.

By Mr. JAVITS (for himself, Mr. NELSON, Mr. TAFT, and Mr. SCHWEIKER):

S. 1815. A bill to provide for an additional year of authorization for programs under the Economic Opportunity Act of 1964. Referred to the Committee on Labor and Public Welfare.

By Mr. PASTORE (for himself, Mr. COTTON, and Mr. HOLLINGS):

S. 1816. A bill to amend the Wool Products Labeling Act of 1939 with respect to recycled wool. Referred to the Committee on Commerce.

By Mr. HUMPHREY:

S. 1817. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing grants and loan guarantees for the construction of elementary and secondary schools, by providing increased financial resources for elementary and secondary education and by promoting the equitable distribution of such resources within the States through the establishment of a National Educational Trust Fund, and to establish a Department of Education. Referred to the Committee on Labor and Public Welfare.

By Mr. GURNEY:

S. 1818. A bill authorizing certain members of the Armed Forces of the United States who were captured and held by an enemy force during the Vietnam conflict to enter, without charge, certain designated units of the National Park System and National Recreation Areas. Referred to the Committee on Interior and Insular Affairs.

By Mr. DOLE:

S. 1819. A bill to direct the Secretary of the

Interior to convey certain lands in Geary County, Kansas, to Margaret G. More. Referred to the Committee on Interior and Insular Affairs.

By Mr. HART:

S. 1820. A bill to amend the Export Administration Act of 1969 to manage the export of forest products from the United States. Referred to the Committee on Banking, Housing, and Urban Affairs.

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 1821. A bill to amend the Federal Aviation Act of 1958, as amended, by requiring certification and subsidy of at least two air carriers to points receiving neither highway nor railroad service. Referred to the Committee on Commerce.

By Mr. STEVENS:

S. 1822. A bill to exempt from the provisions of the Airport and Airways Revenue Act of 1970 helicopters which are not operated on an established line. Referred to the Committee on Finance.

S. 1823. A bill to further amend section 607 of the Merchant Marine Act, 1936, as amended, relating to vessel construction reserve funds, in order to provide that the modification or installation of certain radio equipment be included in the definition of "reconstruction" for the purpose of such section. Referred to the Committee on Commerce.

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1824. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes. Referred to the Committee on Commerce.

STATEMENTS ON INTRODUCED BILLS AN JOINT RESOLUTIONS

By Mr. CHURCH:

S. 1811. A bill to amend the Internal Revenue Code of 1954 to increase the credit against tax for retirement income. Referred to the Committee on Finance.

UPDATE THE RETIREMENT INCOME CREDIT

Mr. CHURCH. Mr. President, I introduce for appropriate reference a bill to modernize the retirement income credit.

Fair and equitable tax treatment for all Americans has long been one of my foremost goals. As chairman of the Senate Committee on Aging, I have been especially committed to tax justice for older Americans.

During the past few years several constructive measures, including a number I have advanced, were approved to provide urgently needed tax relief for overburened moderate- and low-income taxpayers. Some of these measures include:

A new low-income allowance to exempt persons with poverty incomes from paying Federal income tax;

An increase in the personal exemption deduction from $600 to $750;

Liberalization of the child care expense provisions; and

An increase in the standard deduction for persons who do not itemize their expenditures.

But there is still a compelling need to improve or update other provisions of the Internal Revenue Code. One clear-cut example is the retirement income credit. It was adopted in 1954 to provide retired teachers, policemen, firemen, and other government annuitants with comparable tax relief as social security beneficiaries.

Payments under the social security program are, of course, exempt from Federal income tax. Government pensioners and others with little or no social security benefits can still receive similar tax relief by claiming a 15-percent credit on their qualifying retirement income—pensions, annuities, interest, dividends, and rent.

The maximum amount for computing this 15-percent credit is now $1,524 for single aged persons and $2,286 for elderly couples. These amounts must, however, be reduced by:

First, tax-exempt pensions, such as social security benefits and railroad retirement annuities; and

Second, earned income, depending upon the individual's age and extent of earnings.

In the case of persons aged 62 to 71 the maximum base for computing the credit is decreased by $1 for each $2 of earnings between $1,200 and $1,700. And thereafter, it is reduced on a dollar-for-dollar basis for earned income above $1,700.

For public pensioners or annuitants under 62, their maximum base is reduced for each dollar of earnings above $900.

The retirement income credit, however, has not been updated since 1962 for single elderly persons and 1964 for aged couples. As a consequence, it no longer provides equivalent tax relief for retired persons with little or no social security. On the other hand, social security benefits have been adjusted five times during this period to protect older Americans from the cruel effects of inflation.

Quite clearly, the need to update the retirement income credit is long overdue.

To achieve this goal, my bill would increase the maximum amount for computing the 15-percent credit from $1,524 to $2,500 for single aged persons, and from $2,286 to $3,750 for elderly couples. In terms of dollars and cents, this change alone could produce a tax savings of $146 for single older Americans. And for an aged couple, this measure could provide an additional $220 in tax relief.

For older Americans struggling on low or moderate incomes this relief would certainly be most welcome, especially since their purchasing power has been eroded substantially by the staggering increase in the cost of living in recent months.

Second, my proposal would raise the exempt earnings limitation before the maximum base for computing the retirement income credit would be reduced. For retired persons aged 62 to 71, the earnings ceiling would be increased from $1,200 to $2,100—the same level as now exists for social security beneficiaries. Moreover, the $1-for-$2 reduction would apply to all earnings above $2,100, instead of just a $500 band—from $1,200 to $1,700—as under present law. For public pensioners under age 62, the exempt earnings ceiling would be boosted from $900 to $1,200.

Mr. President, the need to modernize the retirement income credit is urgently needed now.

For these reasons, I urge early approval of this measure.

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

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

S. 1811

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 37 of the Internal Revenue Code of 1954 (relating to retirement income) is amended to read as follows:

"SEC. 37. RETIREMENT INCOME.

"(a) GENERAL RULES.—

"(1) JOINT RETURNS.—In the case of a joint return—

"(A) if either spouse has attained the age of 65 before the close of the taxable year, or

"(B) if neither spouse has attained the age of 65 before the close of the taxable year but one or both spouses have public retirement system pension income for the taxable year,

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the retirement income (as limited by subsection (b)) received by the husband and wife during the taxable year.

"(2) OTHER RETURNS.—In the case of a return by an unmarried individual and of a separate return by a married individual—

"(A) if the individual has attained the age of 65 before the close of the taxable year, or

"(B) if the individual has not attained the age of 65 before the close of the taxable year but has public retirement system pension income for the taxable year,

there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 15 percent of the retirement income (as limited by subsection (b)) received by the individual during the taxable year.

"(b) LIMITATION OF RETIREMENT INCOME.—

"(1) IN GENERAL.—The amount of retirement income which may be taken into account for purposes of subsection (a) shall not exceed the following amounts (reduced as provided in paragraph (2)):

"(A) $2,500, in the case of an unmarried individual,

"(B) $2,500, in the case of a joint return where only one spouse is an eligible individual,

"(C) $3,750, in the case of a joint return where both spouses are eligible individuals, or

"(D) $1,875, in the case of separate return by a married individual.

"(2) REDUCTION.—Except as provided in paragraphs (3) and (4), the reduction under this paragraph in the case of any individual is—

"(A) any amount received by such individual as a pension or annuity—

"(i) under title II of the Social Security Act,

"(ii) under the Railroad Retirement Act of 1935 or 1937, or

"(iii) otherwise excluded from gross income, plus

"(B) in the case of any individual who has not attained age 72 before the close of the taxable year—

"(i) except as provided in clause (ii), one-half the amount of earned income received by such individual in the taxable year in excess of $2,100, or

"(ii) if such individual has not attained age 62 before the close of the taxable year, and if such individual (or his spouse under age 62) is an eligible individual as defined in subsection (d)(4)(B), any amount of earned income in excess of $1,200 received by such individual in the taxable year.

"(3) SPECIAL RULES FOR DETERMINING THE REDUCTION IN PARAGRAPH (2).

"(A) Joint returns.—In the case of a joint return, the reduction under paragraph (2) shall be the aggregate of the amounts resulting from applying paragraph (2) separately to each spouse.

"(B) Separate returns of married indi-

viduals.—In the case of a separate return of a married individual, paragraph (2)(B)(i) shall be applied by substituting '$1,050' for '$2,100', and paragraph (2)(B)(ii) shall be applied by substituting '$600' for '$1,200'.

"(C) No reduction for certain amounts excluded from gross income.—No reduction shall be made under paragraph (2)(A) for any amount excluded from gross income under section 72 (relating to annuities), 101 (relating to life insurance proceeds), 104 (relating to compensation for injuries or sickness), 105 (relating to amounts received under accident and health plans), 402 relating to taxability of beneficiary or employees' trust), or 403 (relating to taxation of employee annuities).

"(4) SPECIAL RULE FOR CERTAIN INDIVIDUALS RECEIVING PUBLIC RETIREMENT SYSTEM PENSION INCOME.—In the case of a joint return where one spouse is an eligible individual as defined in subsection (d)(4)(A) and the other spouse is an eligible individual as defined in subsection (d)(4)(B), there shall be an additional reduction under paragraph (2) in an amount equal to the excess (if any) of $1,250 over the amount of the public retirement system pension income of the spouse who is an eligible individual as defined in subsection (d)(4)(B).

"(c) RETIREMENT INCOME.—For purposes of this section—

"(1) IN GENERAL.—Except as provided in paragraph (2), the term 'retirement income' means income from—

"(A) pensions and annuities (including public retirement system pension income and including, in the case of an individual who is, or has been, an employee within the meaning of section 401(c)(1), distributions by a trust described in section 401(a) which is exempt from tax under section 501(a),

"(B) interest,

"(C) rents,

"(D) dividends, and

"(E) bonds described in section 405(b)(1)

which are received under a qualified bond purchase plan described in section 405(a) or in a distribution from a trust described in section 401(a) which is exempt from tax under section 501(a),

to the extent included in gross income without reference to this section, but only to the extent such income does not represent compensation for personal services rendered during the taxable year.

"(2) CERTAIN INDIVIDUALS UNDER AGE 65.—In the case of—

"(A) a return by an unmarried individual who has not attained the age of 65 before the close of the taxable year,

"(B) a separate return by a married individual who has not attained the age of 65 before the close of the taxable year, and

"(C) a joint return if neither spouse has attained the age of 65 before the close of the taxable year,

the term 'retirement income' means only public retirement system pension income, and only so much of such income received by an individual during the taxable year as does not exceed $2,500.

"(d) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) PUBLIC RETIREMENT SYSTEM PENSION INCOME.—The term 'public retirement system pension income' means income from pensions and annuities under a public retirement system for personal services performed by the taxpayer or his spouse, to the extent included in gross income without reference to this section, but only to the extent such income does not represent compensation for personal services rendered during the taxable year. For purposes of this paragraph the term 'public retirement system' means a pension, annuity, retirement, or similar fund or system established by the United States, a State, a possession of the United States, any political subdivision of any of the foregoing, or the District of Columbia.

"(2) EARNED INCOME.—The term 'earned income' has the meaning assigned to such term in section 911(b) except that such term does not include any amount received as a pension or annuity.

"(3) COMMUNITY PROPERTY LAWS DISREGARDED.—The determination of whether—

"(A) earned income, or

"(B) income from pensions and annuities for personal services (including public retirement system pension income and distributions to which subsection (c)(1)(A) applies),

is the income of a husband or wife shall be made without regard to community property laws.

"(4) ELIGIBLE INDIVIDUAL.—The term 'eligible individual' means an individual who—

"(A) has attained the age of 65 before the close of the taxable year, or

"(B) has not attained such age but has public retirement system pension income for the taxable year.

"(5) MARITAL STATUS.—Marital status shall be determined under section 153.

"(6) JOINT RETURN.—The term 'joint return' means the joint return of a husband and wife made under section 6013.

"(e) NONRESIDENT ALIEN INELIGIBLE FOR CREDIT.—No credit shall be allowed under this section to any non-resident alien."

Technical Amendments

(b)(1) Section 904 of the Internal Revenue Code of 1954 (relating to limitation on foreign tax credit) is amended by redesignating subsection (g) as subsection (h), and by inserting after subsection (f) the following new subsection:

"(g) COORDINATION WITH CREDIT FOR RETIREMENT INCOME.—In the case of an individual, for purposes of subsection (a) the tax against which the credit is taken is such tax reduced by the amount of the credit (if any) for the taxable year allowable under section 37 (relating to retirement income)."

(2) Section 6014 (a) of such Code (relating to tax not computed by taxpayer) is amended by striking out the last sentence thereof.

(3) Section 6014(b) of such Code is amended—

(A) by striking out paragraph (4),

(B) by redesignating paragraph (5) as paragraph (4), and

(C) by inserting "or" at the end of paragraph (3).

EFFECTIVE DATE

(c) The amendments made by this section shall apply to taxable years beginning after December 31, 1973.

By Mr. McINTYRE:

S. 1812. A bill to improve the coordination of Federal reporting services. Referred to the Committee on Government Operations.

BILL TO REDUCE FEDERAL PAPERWORK BURDEN

Mr. McINTYRE. Mr. President, I introduce for appropriate reference a bill designed to improve the coordination of Federal reporting services by: transferring the authority for the administration of the Federal Reports Act of 1942 from the Director of the Office of Management and Budget to the General Accounting Office under the Comptroller General of the United States; and including the Internal Revenue Service under the provisions of this act.

The burden of Federal redtape and paperwork required of the small business community has been described by a recent editorial pundit as "strangulation in triplicate." This, I feel, accurately portrays the rapidly accelerating problem posed by ever-increasing Federal statistical and reporting systems. It is because of this growing threat to free enterprise that I rise today to offer this bill that I believe will bring under control this runaway Federal bureaucratic attempt to strangulate business in triplicate.

For example, this legislation will remove the White House Office of Management and Budget from its questionable if not inefficient control over bureaucratic paperwork requirements. It will also bring the Internal Revenue Service under greater control in order to simplify and reduce the Federal tax forms which affect not only every small businessman but every citizen as well.

My bill would take from the White House Office of Management and Budget all control over paperwork and give such control and authority to the Comptroller General. It would also place final supervision of all Federal tax forms under the Comptroller General.

Mr. President, the Select Committee on Small Business recently issued a report on the Federal paperwork burden. This report is based on investigations conducted by the Subcommittee on Government Regulation, which I have the privilege to chair. To hear firsthand the problems of small business in complying with the ever-increasing number of Federal reports and regulations, we conducted field hearings in Chicago, Boston, and Concord, N.H., last year.

The stories we heard were frightening. All too often small businesses are forced to merge with larger companies in order to comply with the administrative demands posed by Federal paperwork. We heard of small businesses who closed their doors because they could not pay for the professional assistance of lawyers and accountants, nor did they have the time or expertise to fill out the myriad forms themselves.

A small manufacturer explained that—

Government redtape diverts small businesses from their primary function of making a good product, selling it, keeping solvent, providing jobs and paying taxes. Obviously, if too much money and effort are expended on nonproductive paperwork, small firms cannot hope to compete and stay in business.

One irate witness put the dilemma succinctly:

The bureaucrats can't seem to comprehend that we out of government have to work for a living and that these papers detract from our productive time.

Our report, Senate Report No. 93-125, entitled "The Federal Paperwork Burden," shows that 35 percent of all Federal forms are mandatory. Their volume and complexity pose a threat to small businesses, for example, the president of a small electronics firm pointed out that the alternatives available to small business are to "take a chance on going to jail or go out of business—since no 1-man or 10-man business can keep up and be honest."

Small businesses, especially the mom-and-pop type stores, are particularly threatened. They must fill out numerous reports ranging to as many as 52 tax forms in a single year or suffer severe penalties. This, I submit, is not an example of a government which is concerned and responsive to the needs of its people. It is not a government which is protecting free enterprise. It is instead

a government which favors only those large concerns who can satisfy its insatiable demand for more information, data, figures, and other esoteric statistics.

Mr. President, in 1942 the Senate Small Business Committee was aware of the potential for destruction which a growing paperwork redtape system could have upon small business. At that time both Houses of Congress affirmatively came to grips with the problem and enacted a paperwork control law known as the Federal Reports Act of 1942. This law contained the potential for holding in check the tendency of the executive bureaucracy to demand ever more data from small business. It sought to eliminate duplication and to simplify government data request forms. It recognized the disparity of resources between small businesses and large firms which have staffs of accountants and lawyers to understand and fill out extensive paperwork forms. It sought to protect small businesses from the competitive disadvantage of having to spend precious resources just to comply with Federal paperwork demands.

I submit, Mr. President, that this good law has been subverted and rendered substantially impotent by the executive branch. Small business has not been helped. Today, small business is victimized as never before by the bureaucracy, aided and abetted by the Federal agency charged by the Congress with protecting the small entrepreneur.

To prove my indictment, I submit the following facts: Section 3 of the 1942 Federal Reports Act requires that the Director of the White House Office of Management and Budget hold hearings in order to end duplicatory agency requests for information. The Director is further charged with actively seeking out such duplications through formal investigations. According to Mr. Frank Carlucci, Assistant Director of OMB, in a letter to me of May 12, 1972—

> The Office of Management and Budget has conducted no formal investigations and hearings pursuant to Section 3(b) during the past five years.

I ask: Is this an example of White House concern for the millions of Americans who are small businessmen?

Not only is section 3(b) of the act not implemented, but, as our report shows, section 5 or the review procedure is enforced so ineptly as to render it virtually meaningless. Althought OBM relies solely on section 5 to administer the provisions of the 1942 act, the Statistical Policy Division which performs clearance procedures is understaffed. Contrary to the dictates of commonsense, top officials at OMB have decreased the staff of this office as the demand for information by Federal agencies has increased. The office had 47 professionals in 1947 but today there are only 25 full-time professionals. Congressional oversight committees have repeatedly warned OMB to upgrade its clearance staff but no action has been forthcoming.

In 1965 the House Committee on Post Office and Civil Service, referring to the clearance office, stated that—

> A major strengthening of such facilities is the first requisite for correction of the highly unsatisfactory condition of Federal Reporting Activities . . .

In 1968 the Senate Small Business Committee in a report on the paperwork burden stated:

> The Federal Reports Act sponsored by this committee in 1942 has not been effective in implementing the policy of Congress directed toward reducing the reporting burden of small business enterprises.

The report cites the reasons as being a lack of adequate staff of OMB and a general lack of commitment.

On August 2, 1972, the Subcommittee on Government Regulation of the Senate Small Business Committee had an opportunity to question Mr. Paul Krueger, Deputy Chief of the Office of Statistical Policy, at length in regard to the effectiveness of his office in controlling proliferation of Federal redtape and paperwork. The following comments by Mr. Krueger are, I feel, typical of the lack of commitment demonstrated by the Office of Management and Budget. They illustrate why we in the Congress must take prompt action if we are to preserve the small business community in America.

When asked if his office was aware of and on the alert to weed out duplicative Federal reporting requirements, Mr. Krueger replied affirmatively. He said:

> (Our staff) is expected to become thoroughly informed and acquainted with respect to the whole body of information being collected by any Federal Agencies . . ."

And—

> Our professional staff, working in this area, is a pretty expert staff and knowledgeable in what kinds of information are available or collected by different agencies.

Yet, later during this hearing I asked Mr. Krueger if he could supply for the record a list of, and copies of, all forms that a typical small business such as a dress shop or a service station might have to file with the Federal Government during any year. His response was—

> No. That I could not even do.

He went on to say—

> We don't know which businesses respond to which forms.

The contradiction is obvious to all and I feel supports my contention that the diligent supervision and action required to reduce bureaucratic redtape and paperwork is missing from OMB.

Mr. President, Federal reporting and statistical programs have increased more than 50 percent between 1958 and 1968 when the Senate Small Business Committee prepared its interim report. The man-hour reporting burden conservatively estimated by OMB has increased 30 million man-hours in the past 6 months alone.

One witness who represents thousands of small contractors told our subcommittee:

> There is no question of the fact that we are being swamped by official forms, reports and record-keeping requirements that are far above those ever intended by the legislator responsible for the laws for which this administrative burden relies upon in accordance with so-called statutory authority.

This witness went on to state that Government paperwork costs the construction industry $5 billion a year. Is there any wonder why housing is so costly and why so many Americans cannot afford adequate housing? So much of the costs passed on to the consumer can be traced to this great paperwork explosion. Not only that—the consumer gets hit a second time. He is also a taxpayer who must pay ever higher taxes so that Government might generate this paperwork and store it and file it.

The very ability of small business to exist in our economic situation is in jeopardy. Action and not rhetoric is needed now.

I invite the cosponsorship of my bill by every Senator who deplores, as I do, the growing Federal consumption of independent enterprise. I believe this bill will be an effective means of reducing the paperwork burden and will enable small businessmen and all citizens to cope with the growing demands of our bureaucratic statistical reporting systems.

The Comptroller General today as in the past has been the vigilant watchdog of the Congress to control runaway Federal spending, cost overruns, illegal Federal contracting practices, and a variety of other actions which threaten the fiscal integrity of our Nation. Should this bill be enacted, I feel confident he will bring into this new task of controlling Federal bureaucratic redtape the same diligence he applies to his other responsibilities. He will, I am certain, take to heart not only the letter of the Federal Reports Act but the congressional intent as well. I am also certain that he will commit whatever resources may be necessary to protect free enterprise which is being threatened by the very government designed to promote it.

I am hopeful the Senate will give early consideration to this bill. Small business cannot tolerate another 30 million man-hour paperwork increase over the next 6 months in order to satisfy Federal information and statistical demands.

Mr. President, I ask unanimous consent that the bill and a section-by-section analysis of it be printed at this point in the RECORD.

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

S. 1812

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That chapter 35 of title 44, United States Code, is amended as follows:

(1) In section 3503—

(A) strike out the section caption and insert in lieu thereof the following:

"§ 3503. Duties of Comptroller General of the United States"; and

(B) strike out of the text "Director of the Bureau of the Budget" and insert in lieu thereof "Comptroller General of the United States".

(2) In sections 3504, 3506, 3507, 3509 (1), and 3510, strike out "Director of the Bureau of the Budget" wherever it appears and insert in lieu thereof "Comptroller General".

(3) In sections 3504, 3506, and 3509, strike out "Director" wherever it appears and insert in lieu thereof "Comptroller General".

(4) In the first sentence of section 3506, immediately after "substantial interest", insert the following: "upon the request of 10 or more persons.".

(5) In the second paragraph of section 3507, strike out "the Internal Revenue Service.".

(6) In item 3503 of the chapter analysis, preceding section 3501, strike out "Director of the Bureau of the Budget " and insert in lieu thereof "Comptroller General of the United States".

SEC. 2 (a) Title 44, United States Code, is amended by inserting between chapters 35 and 37, the following new chapter:

"Chapter 36—IMPROVEMENT OF FEDERAL TAX FORMS

"Sec.
"3601. Federal tax form review
"3602. Revision of Federal tax forms.
"§ 3601. Federal tax form review

"The Comptroller General of the United States shall establish within the General Accounting Office a unit—

"(1) to review tax forms, instructions and other such public use documents prepared by the Internal Revenue Service;

"(2) to make recommendations with respect to the simplification of any such forms;

"(3) to make recommendations with respect to the frequency with which any such form should be completed; and

"(4) to make recommendations with respect to the scope of any such forms.

The results of any such review shall be promptly reported to the Congress.

"§ 3602. Revision of Federal tax forms

"Upon request of any party having a substantial interest, or 10 or more persons, or upon his own motion, the Comptroller General may determine whether any tax form prepared by the Internal Revenue Service may be simplified, combined within any other such tax form, or completed less frequently, or the scope thereof reduced. Prior to making a determination, the Comptroller General shall fix a time and place for a hearing at which the Internal Revenue Service and other interested persons may have an opportunity to present their views. After the hearing, the Comptroller General may issue an order requiring the simplification, combining, or completion less frequently of any such tax form, or the reduction of the scope thereof. The Comptroller General may modify the order from time to time as circumstances require, but modification may not be made except after hearing."

(b) The table of contents of chapters, preceding chapter 1 of such title 44, is amended by inserting between items 35 and 37 the following new item:

"36. Improvement of Federal Tax Forms ----------3601".

SECTION-BY-SECTION ANALYSIS

Sec. 1. Deletes the authority of the Director of the Bureau of the Budget to administer the Federal Reports Act of 1942 and grants such authority to the Comptroller General. (44 USC 3501-3511)

Sec. 2. Adds a new Chapter, number 36, to Title 44 of the United States Code which establishes a new unit within the General Accounting Office responsible for the review of all tax forms. The Comptroller General upon his own motion or at the request of ten or more persons may determine whether any tax form prepared by the Internal Revenue Service may be simplified, combined with any other such tax form or completed less frequently. Prior to such a determination, the Comptroller General shall fix a time and place for a hearing at which time the IRS and any other interested party may present their views. After such hearing, the Comptroller General may issue an order requiring such simplification, combining or reduction in frequency of filing. This order may be modified from time to time as circumstances require but only after public hearing.

By Mr. DOMINICK:

S. 1813. A bill to amend the act of September 30, 1950 (Public Law 874, 81st Congress) relating to financial assistance for schools in areas affected by Federal activites to provide for a phasing out of certain entitlements under that act, and for other purposes. Referred to the Committee on Labor and Public Welfare.

Mr. DOMINICK. Mr. President, impact aid, Public Law 81-874, has since 1950 been a program of Federal assistance to local educational agencies in areas affected by Federal installations.

Generally, two broad categories of students are assisted under this program. Children whose parents reside on and work on Federal property—A students—and children whose parents work on Federal property but live on private property away from the Federal installation—B students—are counted to determine a local educational agency's—LEA—eligibility for impact aid funds. The traditional justification for such aid has been the removal from the local tax base property owned by the Federal Government and the additional burden placed on the school district by families connected with the Federal installation. Impact aid money to LEA's is revenue sharing in its present form, as there are no restrictions on permissive areas of expenditure.

Section 3 of Public Law 874 is the major source of payments. Under this section, a school district is eligible for assistance if it has 3 percent of its pupils or 400 students who are federally connected—A and B students. The amount of assistance to a school district is derived by multiplying the number of federally connected students by a local contribution rate. However, the total number of B students in average daily attendance is reduced by 50 percent prior to applying the local contribution rate. Presently, this eligibility is being further reduced by limiting payments to LEA's for B students to 54 percent of entitlement. In effect, then, LEA's are getting 54 percent of the money they are eligible to receive for 50 percent of their B students.

The administration's Better Schools Act (S. 1319) proposes the elimination of LEA eligibility for B student payments. In my introductory remarks on the Better Schools Act, I expressed grave concern about the ability of many heavily impacted local school districts to survive the fiscal shock of such an abrupt cessation in the program. In an attempt to find some area of agreement between those who want to eliminate the B student program entirely, and those who want to preserve the program in its present form, I introduce legislation to gradually reduce an LEA's eligibility for B student impact aid funds, and ask that its text be printed at the end of my remarks.

This bill would gradually, over a 5-year period, reduce the number of B students to be counted in arriving at the average daily attendance figure. As I discussed earlier, the school district determines the number of A and B students who were in average daily attendance, and the local contribution rate is applied to all the A students and one-half the number of B students who were in average daily attendance to determine the LEA's impact aid eligibility. My bill would require that for every consecutive year that a B student was counted in the district's average daily attendance computation—or stated differently, for every consecutive year that a B student resided in the school district—the district could only count that student at some fraction rather than as one.

This reduction in a district's B student entitlement would not begin to register until the June 30, 1975, computation of average daily attendance. My bill provides that the consecutive years of inclusion in the previous year's average daily attendance computation—or residence in the district—shall not begin to run until June 30, 1973. The first year of residence—June 30, 1974—in that district allows the LEA full entitlement for the B student. However, after the second consecutive year of residence—June 30, 1975—in the district, the LEA could only count such a student as three-fourths as opposed to one; after the third consecutive year of residence—June 30, 1976—the district can only count the B student as one-half in its computation of the number of B students in average daily attendance; after the fourth consecutive year of residence—June 30, 1977—such a student would be counted as one-fourth; and after the fifth consecutive year of residence—June 30, 1978—such a student shall not be included at all in the district's count. Should a B student move into a school district qualifying for B impact aid on June 30, 1976, that student could be counted—at a reduced level—each year until 1980. In addition, the bill leaves undisturbed the present requirement in Public Law 874 that the contribution rate be applied only to 50 percent of the number of B students in average daily attendance.

Because of the gradual phaseout of 5-year B student residents in the local school district and the expected decrease in appropriations needed to fund this modified program, I would hope that it could be 100 percent funded, rather than limiting payments to LEA's, as is presently being done, to 54 percent of entitlement.

Mr. President, the B category of eligible students can be further subdivided into B military and B civilian. The B civilians—children with a parent who is a civilian employee of the Federal Government working at a Federal installation—would be the group most significantly affected. This legislation was designed to remove this group from eligibility because the residence is available for local taxation; but the effect should be spread over 5 years to give the school districts ample time to absorb the loss.

The effect on districts enrolling substantial numbers of B military students—children from military families with a parent working on Federal property—would not be as great, as I expect transfers would be frequent enough that the 5-year requirement would not be completely satisfied. This result, that is preserving to a great extent B military eligibility, was intended as these families tend to cluster on property which does not significantly add to the district's tax base. As a result, the property tax alone, in the absence of an income tax—family claims residency in another State—and in the absence of a sales tax—family shops on base—does not represent a fair

share of the cost to the school district of educating the children from these families. The Federal Government in such a case can and should contribute to the cost of instruction in such districts.

Mr. President, this legislation recognizes and fulfills a continuing obligation on the Federal Government to contribute to the cost of educating children who have a more narrowly defined Federal connection. I am confident that local school districts can adjust to significant decreases in B student impact aid, if it is spread over 5 years. Because of the importance of this program to so many school districts, I hope this legislation can receive early consideration and action.

By Mr. JAVITS (for himself, Mr. CRANSTON, Mr. HATHAWAY, Mr. KENNEDY, and Mr. RANDOLPH):

S. 1814. A bill to amend and improve the Adult Education Act. Referred to the Committee on Labor and Public Welfare.

ADULT EDUCATION AMENDMENTS OF 1973

Mr. JAVITS. Mr. President, I introduce for myself and for Senators CRANSTON, HATHAWAY, KENNEDY, and RANDOLPH, all members of the Subcommittee on Education, the Adult Education Amendments of 1973. A similar bill is being introduced today in the House by a bipartisan group of Members led by Representative LLOYD MEEDS of Washington.

The bill would amend the Adult Education Act to—

Extend the authorizations of existing programs for 5 years through fiscal year 1978.

Provide that up to 25 percent of funds may be used for high school equivalency programs for adults so as better to reach the some 64 million adult Americans with less than a high school education.

Give new emphasis to programs for adults in institutions and to adult programs in community schools.

Provide for State advisory councils which may be established in each State to counsel with both State and Federal authorities on adult education programs.

More than 22 million Americans have less than an elementary school education and some 64 million age 16 and over have less than a high school education. These are the forgotten millions of American education. This represents a tremendous lag which, in our highly technological age, could represent a major handicap to the Nation's progress. For, while we seek to help make available the best possible education for our young people to meet the responsibilities of citizenship and the challenges of a career, we have fallen short in our responsibility toward those adults who for some reason fell by the wayside and were unable to obtain the minimum of a high school education. As was pointed out in "Work in America," the report of the HEW special task force—

> We have largely neglected the educational needs of older workers.

Although there has been a Federal adult education statute on the books, education is thought of as elementary, secondary and postsecondary. Adult education must participate as a full-fledged partner in the American education effort. In today's increasingly complex society, a basic education for an adult is more than acquiring literary—it should be at least the equivalent of going through high school.

For 1971, the latest figures available, the mean annual income for an individual with less than 8 years of elementary school was $5,950; for 1 to 3 years of high school, $8,966; for 4 years of high school, $10,751; and for 4 or more years of college, $16,698.

A high degree of motivation and the effective use of education technology—plus the necessary availability of the means—make it possible for an adult to earn 2 or 3 years of high school credit in but 1 year. And that education is in new concepts of science and of social studies, making his learning relevant to the individual's ambitions and to his life at this time.

This measure has the support of the National Association for Public Continuing and Adult Education—NAPCAE—an affiliate of the National Education Association. I ask unanimous consent that there be included as part of my remarks some statistics from NAPAE's 1973 Almanac indicating the State-by-State need for adult education programs as well as the text of the bill:

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

S. 1814

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 "Adult Education Amendments of 1973".

SEC. 2. Section 303 of the Adult Education Act is amended by adding at the end thereof the following new subsection:

"(j) The term 'community school program' means any program in which a public elementary or secondary school is used as a community center and is operated in cooperation with other groups in the community to provide educational, community, and social services consistent with the purposes of this title for the community which that center serves.".

SEC. 3. Section 304 of the Adult Education Act is amended by striking out "20 per centum" and inserting in lieu thereof "15 per centum".

SEC. 4. Section 306 of the Adult Education Act is amended by redesignating clauses (6), (7), (8), and (9), and all references thereto, as clauses (8), (9), (10), and (11), respectively, and by inserting immediately after clause (5) of such section the following new clauses:

"(6) provide for cooperation with manpower development and training programs and occupational education programs;

"(7) provide that such agency will make available not to exceed 25 per centum of the State's allotment for programs of equivalency for a certificate of graduation from a secondary school;".

SEC. 5. (a) Section 306(a)(1) of the Adult Education Act is amended by inserting after the words "adult population" the word ", including the institutionalized".

(b) Section 309(b) of the Adult Education Act is amended by—

(1) inserting immediately before the word "local" the following: "State educational agencies,";

(2) adding at the end thereof the following new sentence: "Whenever the Commissioner makes grants to local educational agencies or other public and private nonprofit agencies, he shall establish procedures under which the appropriate State educational agencies will be given reasonable opportunity to offer recommendations to the grant recipient and to submit comments to the Commissioner."; and

(3) inserting after the words "television stations" the words "and agencies conducting community school programs".

SEC. 6. The Adult Education Act is amended by inserting immediately after section 310 thereof the following new section:

"STATE ADVISORY COUNCILS

"SEC. 310A. (a) Any State which receives assistance under this title may establish and maintain a State advisory council which shall be appointed by the Governor or, in the case of a State in which members of the State board which governs the State education agencies are elected (including election by the State legislature), by such board.

"(b)(1) Such a State advisory council shall include as members persons who, by reason of experience or training, are knowledgeable in the field of adult education or who are officials of the State educational agency or local educational agency of that State, persons who are or have received adult educational services, and persons who are representative of the general public.

"(2) Such a State advisory council, in accordance with regulations prescribed by the Commissioner, shall—

"(A) advise the State educational agency on the development of, and policy matters arising in, the administration of the State plan approved pursuant to section 306;

"(B) advise with respect to long-range planning and studies to evaluate adult education programs, services, and activities assisted under this Act; and

"(C) prepare and submit to the State educational agency, and to the National Advisory Council for Adult Education established pursuant to section 310, an annual report of its recommendations, accompanied by such additional comments of the State educational agency as that agency deems appropriate.

"(c) Upon the appointment of any such advisory council the appointing authority under subsection (a) of this section shall inform the Commissioner of the establishment of, and membership of, its State advisory council. The Commissioner shall, upon receiving such information, certify that each such council is in compliance with the membership requirements set forth in subsection (b)(1) of this section.

"(d) Each such State advisory council shall meet within thirty days after certification has been accepted by the Commissioner under subsection (c) of this section and select from among its membership a chairman. The time, place, and manner of subsequent meetings shall be provided by the rules of the State advisory council, except that such rules shall provide that each such council meet at least four times each year, including at least one public meeting at which the public is given the opportunity to express views concerning adult education.

"(e) Each such State advisory council is authorized to obtain the services of such professional, technical, and clerical personnel as may be necessary to enable them to carry out their functions under this section."

SEC. 7. (a) Section 312(a) of the Adult Education Act is amended by—

(1) striking out the word "There" and inserting in lieu thereof "Except as provided in section 313, there"; and

(2) striking out "and June 30, 1973" and by inserting in lieu thereof "and for each of the six succeeding fiscal years".

(b)(1) The matter preceding the colon in section 431 of the Education Amendments of 1972 is amended to read as follows:

"SEC. 431. Title III of the Elementary and Secondary Education Amendments of 1966 (the Adult Education Act) is amended by adding at the end thereof the following new section".

(2) Section 431 of such title III is further amended by striking out "SEC. 314", and by inserting in lieu thereof "SEC. 313".

(3) Section 313(d) of the Adult Education

Act (as redesignated by this section) is amended by striking out the word "two" and inserting in lieu thereof the word "five".

EDUCATIONAL ATTAINMENT

	Age 16 and over, less than elementary school education	Age 16 and over, less than high school
50 States, District of Columbia, and Puerto Rico	22,787,950	63,970,815
Alabama	683,141	1,325,055
Alaska [1]	47,000	80,000
Arizona	212,698	438,045
Arkansas	317,444	376,751
California	1,300,056	4,300,379
Colorado	101,562	253,074
Connecticut	300,000	900,000
Delaware	110,000	158,602
District of Columbia	65,000	227,000
Florida	800,000	2,000,000
Georgia	656,754	1,399,175
Hawaii	84,079	191,155
Idaho	38,565	197,072
Illinois	1,172,035	4,121,503
Indiana	784,064	2,767,360
Iowa	116,801	632,366
Kansas	163,913	715,891
Kentucky	575,481	1,317,446
Louisiana	726,356	1,257,925
Maine	88,539	373,000
Maryland	481,305	1,131,672
Massachusetts	548,172	1,698,427
Michigan	765,183	2,735,552
Minnesota	273,000	1,110,000
Mississippi	440,362	900,000
Missouri	553,235	1,714,704
Montana	91,558	171,119
Nebraska	98,788	487,772
Nevada	40,000	108,000
New Hampshire	55,684	125,000
New Jersey	765,496	2,307,982
New Mexico	116,722	287,583
New York	1,600,000	5,500,000
North Carolina	982,352	2,444,381
North Dakota	61,443	216,471
Ohio [1]	993,167	3,437,438
Oklahoma	302,503	856,542
Oregon	136,200	620,000
Pennsylvania	1,465,002	4,403,159
Puerto Rico [1]		
Rhode Island	100,000	300,000
South Carolina	540,483	1,013,000
South Dakota	48,681	201,467
Tennessee	625,000	1,499,000
Texas	1,758,413	3,060,636
Utah	34,156	217,179
Vermont	33,000	121,000
Virginia	810,000	1,539,000
Washington	160,000	750,000
West Virginia	278,717	855,572
Wisconsin	266,000	1,034,660
Wyoming [1]	19,876	91,700

[1] 1971–72 information not received.

Source: Based on most recent estimates submitted to NAPCAE by State Departments of Education.

SENATOR RANDOLPH SUPPORTS THE EXTENSION OF THE ADULT EDUCATION ACT

Mr. RANDOLPH. Mr. President, during the last decade significant changes have occurred in our concept of education. Educators are now being challenged to meet the ever growing and changing needs of the community and its citizens. High among these needs is the alarming number of adults who have never completed a high school education.

It is estimated that there are 64 million adults with less than a high school education. The passage of the Adult Education Act in 1966 provided these millions of adults with a greater opportunity to complete their education. Although the estimated number of adults who do not complete a high school education program has had a tremendous effect since its inception.

In West Virginia we are presently serving approximately 73,000 people in the adult basic education program. However, this number is small when compared to the total number of 300,000 disadvantaged adults with less than an eighth grade education. We can take great pride in the number of people that we serve, but we must open new doors for those thousands that are not served.

The bill introduced by Senator JAVITS will extend the authority for the existing program for 5 years. This extension is vital to our continuing efforts to meet the needs of these underprivileged citizens. The bill also provides for cooperation with manpower development and training programs and occupational training programs. The 25 percent of the funds allotted to the States under the program may be used for high school equivalency programs.

It is a great joy to see people learn to read or to see parents and grandparents helping their children with their homework for the first time. The significance of adult education programs is also demonstrated by the new and greater academic skills that participants will carry with them as they seek employment. It is a privilege for me to join with Senator JAVITS in sponsoring this legislation.

By Mr. JAVITS (for himself, Mr. NELSON, Mr. TAFT, Mr. SCHWEIKER, Mr. MONDALE, and Mr. CRANSTON):

S. 1815. A bill to provide for an additional year of authorization for programs under the Economic Opportunity Act of 1964. Referred to the Committee on Labor and Public Welfare.

EXTENSION OF PROGRAMS UNDER ECONOMIC OPPORTUNITY ACT OF 1964—AMENDMENT

AMENDMENT NO. 132

(Ordered to be printed, and referred to the Committee on Labor and Public Welfare.)

Mr. JAVITS. Mr. President, I introduce for myself, Senator NELSON, the chairman of the Subcommittee on Employment, Poverty, and Migratory Labor, Senator TAFT, the ranking minority member of that subcommittee and Senators SCHWEIKER, MONDALE, and CRANSTON a bill to provide for the continuation of the antipoverty programs under the Economic Opportunity Act of 1964.

And as an amendment to that bill I submit on behalf of myself, Senator NELSON, Senator TAFT, and Senator SCHWEIKER the administration's proposal for a National Legal Services Corporation.

S. 1815, essentially an interim measure, provides that in order to maintain legal services programs pending establishment of a new Legal Services Corporation, the Director of the Office of Economic Opportunity may delegate his functions with respect to those programs to the Secretary of Health, Education, and Welfare; this delegation—which is precluded under the existing law will provide continued funding of programs in the event that as of June 30, 1973, a new corporation is not ongoing and the administration's plans to eliminate OEO are accomplished.

It is my hope that the administration will support this interim bill so that continuity will not be lost in the transition to a new Legal Services Corporation; at the present time the legal services program is a "cliff hanger" after July 1, 1973 because the Congress has authorized and reserved funding after that date for legal services only if the program is conducted by OEO and the administration has requested funding only if it is to be conducted by a new Legal Services Corporation.

Accordingly, this measure proposes a compromise under which the program may be continued. It incidentally does not depart substantially from the administration's own plans, expressed in its 1974 fiscal budget which contemplated that the Department of Health, Education, and Welfare would hold the funds for the corporation in the latters absence; the distinction is between merely holding and administering the program and it is the latter that S. 1815 would authorize.

Mr. President, as submitted, the amendment incorporating the administration's new proposed Corporation would establish it under a new title X under the Economic Opportunity Act of 1964.

It is my personal view that although the legal services program may be conducted by a new corporation, that program should remain as an essential antipoverty effort and thus be a part of the basic antipoverty law.

The President's submission of a new proposal for a legal services corporation is a commendable act, putting us "back on the track" concerning the future of the program.

While differences remain with respect to particular terms and some elements of this proposal give me concern, the overriding fact is that the President has rejected alternatives that could have turned the program completely over to the States resulting totally in politicization of the program; instead he has stuck basically to his proposal of last year, and has made a renewed commitment to a legal services corporation, essentially of a national nature.

The new commitment is spelled out in clear terms in the President's message of May 11, 1973, regarding legal services, when he said:

> When I asked the Congress in 1971 to create an independent Legal Services Corporation, I said that my proposal had three major objectives. Those same objectives apply to my proposal today:
>
> "First, that the corporation itself be structured and financed so that it will be assured of independence; second, that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profesion; and third, that the Nation be encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of justice."

Mr. President, on April 16, 1973, I joined with a number of Senators in a letter to the President, urging prompt transmittal of a new proposal for a national corporation, as distinct from a State plan approach and pledging "every consideration" to such a new proposal.

The President has "kept faith" with that general request and I shall keep faith with him by insuring the full consideration which we pledged.

In that spirit, I hope that we will work speedily toward a bill which will have the full support of the Congress and the Executive so that this very gifted concept—which the President has championed and which has been frustrated for 2 years—can be given life.

A BASIC ELEMENTS OF THE BILL

With that background, I shall outline the basic elements of the administration's proposal to establish a Legal Services Corporation, which as I indicated, is being offered as an amendment to the bill.

First, the bill would establish a nonprofit Corporation under the laws of the District of Columbia for the purpose of providing legal services; it would be governed, like last year's administration bill, by an 11 member board appointed by the President, with the advice and consent of the Senate; not more than six members would be of the same political affiliation and a majority would be required to be attorneys.

Second, the Corporation, generally like last year's bill, would be authorized to make grants and enter into contracts with individuals, partnerships, firms, organizations, and corporations.

Third, the Corporation would establish a nine member advisory council in each State, to be appointed by the Governor, or if he failed to act, by the national board. The State council would maintain a continuing review of all legal services. This is essentially a new feature.

Fourth, restrictions would be imposed with respect to representation in criminal proceeding, lobbying, public interest law firms, organizational matters and a number of other activities; any "interested party" could bring suit against the Corporation or its recipients, for a violation of these requirements; many of these provisions are also "new".

Fifth, any person could qualify for legal assistance under the program so long as his income were less than 200 percent of the poverty level and his lack of income did not result from a refusal to seek or accept a job. These are more expansive eligibility requirements than proposed in last years proposal.

Sixth, the Corporation would also be charged with responsibility for conducting a study of alternative ways of delivering legal services, such as judicare, vouchers, prepaid legal insurance, and contracts with law firms. A report of this study would be prepared and submitted to the President and the Congress no later than June 30, 1974. This is also essentially a "new" feature.

Mr. President, many of these provisions are new, some are from the administration's previous proposal but "tougher" than previously advanced, others are subject to different interpretations in terms of practice and constitutional law and some of what I considered to be commendable elements of last year's bill for example, advisory councils—are not included.

We hope that these and other points—as those in other proposals before the Congress—will be addressed with the greatest attention, and of course, the views of the organized bar and the attorneys in the current program with respect to these and other provisions will—as in the past—be a strong guiding force in the final legislation which results.

These provisions and those of other bills before the Congress must be judged by the very principles enunciated by the President—not only in terms of their intent but their potential effects, the independence of the Corporation; freedom of the attorney and maintenance of a vital program.

As in the case of the existing program and previous proposals to establish a Corporation, it shall be my policy to oppose or clarify the elements which could tend to politicize the program and to support and refine elements that will serve to professionalize it.

There have been abuses against the program and abuses within the program and both must be guarded against with great care as we give the program a new home—where it hopefully can "come of age," thrive, and take larger jumps in terms of quantity and quality toward the goal of equal justice, to use the President's own words, as a "basic right of all Americans."

Mr. President, I ask unanimous consent that the following be printed in the RECORD at this point: a copy of the statement by the President, dated May 11, 1973, a comparison prepared at my request by the legislative reference service showing the elements of this proposal, last year's bill, and amendment No. 5 to S. 706 a copy of the letter to the President dated April 16, joined by Senator MONDALE, Senator TAFT, the ranking minority member of the Subcommittee on Employment, Poverty, and Migratory Labor of the Senate Committee on Labor and Public Welfare, and Senators SCHWEIKER, STAFFORD, MONDALE, WILLIAMS, KENNEDY, and CRANSTON, each member of the committee, as well as a copy of the bill, the amendment, and my previous statements on this subject.

There being no objection, the bill, amendment, and material were ordered to be printed in the RECORD as follows:

S. 1815

A bill to provide for an additional year of authorization for programs under the Economic Opportunity Act of 1964

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That sections 245 and 615 of the Economic Opportunity Act of 1964 are each amended by striking out "eight succeeding fiscal years" and inserting in lieu thereof "nine succeeding fiscal years".

SEC. 2. Section 602(d) of the Economic Opportunity Act of 1964 is amended by adding at the end thereof the following: "except that the Director shall not delegate to any other existing agency his functions with respect to the legal services programs assisted pursuant to section 222(a)(3), 230, 232 and other provisions of this Act, but in order to maintain such programs, he may delegate such functions to the Secretary of Health, Education and Welfare, such delegation to be effective at any time after June 30, 1973.

SEC. 3. Section 3(c)(2) of the Economic Opportunity Amendments of 1972 (P.L. 92-424) is amended by adding at the end thereof the following new sentence: Nothing contained in this paragraph shall prohibit a delegation of functions with respect to legal services programs pursuant to section 602(d) of the Economic Opportunity Act of 1964.

SEC. 4. Section 114 of the Economic Opportunity Amendments of 1969 (P.L. 91-177) is hereby repealed.

No. 132

Add the following at the end thereof:

SEC. 5. (a) The Economic Opportunity Act of 1964 is further amended by adding at the end thereof the following new title:

"LEGAL SERVICES CORPORATION ACT

"SHORT TITLE

"SEC. 1001. This title may be cited as the 'Legal Services Corporation Act'.

"DEFINITION

"SEC. 1002. As used in this Act, the term—

"(1) 'State' means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, Guam, or any of the territories and possessions of the United States;

"(2) 'governor' means the chief executive officer of a state;

"(3) 'legal assistance' means the provision of any legal services under this Act; and

"(4) 'staff attorney' means an attorney who receives a majority of his annual professional income from legal assistance under this Act.

"ESTABLISHMENT OF CORPORATION

"SEC. 1003. (a) There is hereby established in the District of Columbia a private nonmembership nonprofit corporation which shall be known as the 'Legal Services Corporation' (hereinafter in this Act referred to as the 'Corporation') for the purpose of providing financial support for legal assistance in noncriminal matters to persons financially unable to afford legal assistance (hereinafter in this Act referred to as 'eligible clients').

"(b) The Corporation shall maintain its principal office in the District of Columbia and shall, it at all times, maintain therein a designated agent to accept service of process for the corporation. Notice to or service upon the agent shall be deemed notice or service upon the corporation.

"GOVERNING BODY

"SEC. 1004 (a) The Corporation shall have a Board of Directors (hereinafter in this Act referred to as the 'board') consisting of eleven voting members appointed by the President, by and with the advice and consent of the Senate, no more than six of whom shall be of the same political party. A majority shall be members of the bar of the highest court of any state and none shall be a full time employee of the United States.

"(b) The term of office of each member of the Board shall be three years or until his successor has been appointed and has qualified; except that of the members first appointed, five members designated by the President shall serve for a term of two years. For purposes of this subsection, the term of office of the initial members of the Board shall be computed from the date of enactment of this Act. 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. The term of all members shall be computed from the date of termination of the preceding term. No member shall be reappointed to more than two consecutive terms immediately following his initial term.

"(c) The members of the Board shall not, by reason of such membership, be deemed officers or employees of the United States.

"(d) The President shall select from among the voting members of the Board a Chairman, who shall serve for a term of one year.

"(e) A member of the Board may be removed by a vote of seven members for malfeasance in office, persistent neglect of, or inability to perform, duties and for no other cause.

"(f) Within six months following the appointment of all members of the Board, the Board shall request the Governor of each State to appoint a nine-member advisory council for his State. A majority of the members of the advisory council shall be chosen from among the lawyers admitted to practice in the State and the members of the council shall be subject to annual reappointment. Should the Governor fail to appoint the advisory council within ninety days of receipt of said request from the Board, the Board shall appoint such a council. The advisory council shall be charged with notifying the

corporation of any apparent violation of the provisions of this Act and applicable rules and regulations.

"(g) All meetings of the Board, of any executive committee of the Board, and of State advisory councils shall be open to the public, unless the membership of such bodies, by two thirds vote of those elegible to vote, determines that an executive session should be held on a specific occasion.

"OFFICERS AND EMPLOYEES

"SEC. 1005. (a) The Board shall appoint the President of the Corporation, who must be a member of the bar of the highest court of a State and shall be a nonvoting, ex officio member of the Board, and such other officers as the Board determines to be necessary. No officer of the Corporation may receive any salary or other compensation for services from any source other than the Corporation during his period of employment by the Corporation. All officers shall serve at the pleasure of the Board.

"(b) The President of the Corporation, subject to general policies established by the Board, may appoint and remove such employees as he determines to be necessary to carry out the purposes of the Corporation.

"POWERS, DUTIES, AND LIMITATION

"SEC. 1006. (a) In addition to the powers conferred upon a nonprofit corporation by the District of Columbia Nonprofit Corporation Act, the Corporation shall have authority—

"(1) to make grants to, and to contract with, individuals, partnerships, firms, organizations, corporations, State and local governments, and other appropriate entities (hereinafter in this Act referred to as 'recipients') for the purpose of providing legal assistance to eligible clients;

"(2) to accept grants, gifts, devises, and bequests in furtherance of the purposes of the Corporation; and

"(3) to undertake, either directly or by grant or contract: (i) research, (ii) training and technical assistance, and (iii) to serve as a clearinghouse for information, relating to the delivery of legal assistance under this Act.

"(b)(1) The Corporation shall have authority to insure the compliance of recipients and their employees with the provisions of this Act and the corporate charter and bylaws, and to terminate, after a hearing, financial support to a recipient which fails to comply.

"(2) If an employee of a recipient violates or causes the recipient to violate the provisions of this Act or the charter, bylaws, or guidelines of the Corporation, the recipient shall take appropriate disciplinary action.

"(3) The Corporation shall not interfere with any attorney in carrying out his professional responsibility to his client or abrogate the authority of a State to enforce the applicable standards of professional responsibility which apply to the attorney.

"(4) No attorney shall receive any compensation, either directly or indirectly, for the provision of legal assistance under this Act, unless such attorney is admitted to practice law in the State where the rendering of such assistance is initiated.

"(5) The Corporation shall insure that its employees and employees of recipients, which employees receive a majority of their annual professional income from legal assistance under this Act, shall refrain from participation in, and refrain from encouragement of others to participate in, any of the following activities: (i) rioting, civil disturbance, picketing, boycott, or strike; or (ii) any form of activity which is in violation of an outstanding injunction of any Federal, State, or local court; or (iii) any illegal activity. The Board, within ninety days of the date of enactment of this Act, shall issue rules and regulations to provide for the enforcement of this subsection, which rules shall include provisions for termination or summary suspension of legal assistance supported under this Act, and suspension or termination of compensation to an employee of the Corporation or of a recipient under this Act.

"(6)(A) Any interested person may bring an action in a Federal district court to enforce compliance with the prohibitions of or under this Act by the Corporation or any recipient or any officer or employee of the Corporation or of any recipient.

"(B) If an action is brought under clause (A) to enforce compliance with the prohibitions of or under this Act and a final judgment is rendered in favor of the plaintiff, the Corporation shall promptly reimburse him for his costs and legal fees incurred in prosecution of the action.

"(d) The Corporation shall not—

"(1) participate in litigation on behalf of clients other than the corporate entity itself;

"(2) undertake to influence the passage or defeat of any legislation by the Congress of the United States or by any State or local legislative bodies, except that personnel of the Corporation may testify when formally requested to do so by a legislative body, a committee, or a member thereof.

"(e)(1) The Corporation shall have no power to issue any shares of stock, or to declare or pay any dividends.

"(2) No part of the income or assets of the Corporation shall inure to the benefit of any director, officer, or employee, except as reasonable compensation for services.

"(3) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment to any political party, political association, or candidate for elective office.

"(4) Neither the Corporation nor any recipient shall contribute or make available corporate funds or program personnel or equipment for use in advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations.

"GRANTS AND CONTRACTS

"SEC. 1007. (a) With respect to grants or contracts to provide legal assistance to eligible clients, the Corporation shall—

"(1) insure the maintenance of the highest quality of service and professional standards, adherence to the preservation of attorney-client relationships, and the protection of the integrity of the adversary process from any impairment in furnishing legal assistance to eligible clients;

"(2) establish that an individual shall be eligible for legal assistance pursuant to this Act (referred to in this Act as an 'eligible client') if his annualized gross income is less than 200 per centum of the poverty level as defined by the Office of Management and Budget; except that no individual, capable of gainful employment, shall be eligible for the receipt of legal assistance if his lack of gross income results from his refusal or unwillingness to seek or accept employment;

"(3) establish a schedule of fees which will require the client, if able, to pay at least a portion of the cost of legal assistance;

"(4) insure that grants are made and contracts are entered into so as to provide adequate legal assistance to persons in both urban and rural areas;

"(5) insure that attorneys employed full time in legal assistance activities supported in whole or in part by the Corporation represent only eligible clients and refrain from any outside practice of law;

"(6) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies; except that personnel of any recipient may testify when formally requested to do so by a legislative body, a committee, or a member thereof;

"(7) insure that all attorneys, while engaged in legal assistance activities supported in whole or in part by the Corporation, refrain from—

"(A) any political activity; or

"(B) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal representation in civil or administrative proceedings); or

"(C) any voter registration activity (other than legal representation);

and insure that attorneys receiving a majority of their annual professional income from legal assistance activities supported in whole or in part by the corporation refrain from the above enumerated activities at any time; and

"(8) the Corporation shall establish guidelines for a system for review of appeals to be implemented by each recipient to insure the efficient utilization of resources and to prevent the taking of frivolous and duplicative appeals.

"(b) No funds made available by the Corporation under this Act, either by grant or contract, may be used—

"(1) to provide legal assistance under this Act with respect to a criminal proceeding or incarceration for a crime;

"(2) for any of the political activities described in section 1007(a)(7) above;

"(3) to award grants or enter into contracts with any public interest law firm which expends any resources and time litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both;

"(4) to provide legal assistance under this Act to any person of less than eighteen years of age without formal written consent of one of said persons' parents or guardians, except that if a person of less than eighteen years of age has no parent or legal guardian, an attorney compensated under this Act may represent such person for the purpose of petitioning the court to request appointment of a guardian ad litem, with the written consent of a guardian ad litem necessary for continued provision of such legal assistance.

"(5) to support or conduct training programs for the advocacy of, as distinguished from the dissemination of information about, particular public policies or which encourage political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations; and

"(6) to organize, to assist to organize, or to encourage to organize, or plan for, the creation or formation of, or the structuring of, any organization, association, coalition, alliance, federation, confederation, or any similar entity except as authorized by the Corporation.

"(c) In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal services to eligible clients is governed by a body a majority of which consists of lawyers who are members of the bar of the State in which the legal services are to be provided.

"(d) The Corporation shall monitor and evaluate programs supported in whole or in part under this Act to insure that the provisions of this Act and the bylaws of the Corporation and applicable rules and regulations are carried out.

"(e) Grants and contracts under this Act shall be made or entered into by the President in the name of the Corporation, but the Board may by rule establish classes of grants or contracts to be reviewed and approved by it prior to such action by the President.

"(f) At least thirty days prior to the Corporation's approval of any grant application or prior to entering into a contract, the Corporation shall notify the Governor and the State bar association of the State in which the recipient will offer legal assistance. Notification shall include a reasonable description of the grant application or proposed

contract and request their comments and recommendations.

"(g) The Corporation shall insure that no less than 10 per centum of the moneys it expends in any year shall go to activities which are non-staff-attorney oriented.

"(h) The Corporation shall conduct a study of alternative methods of delivery of legal services to eligible clients including judicare, vouchers, prepaid legal insurance, and contracts with law firms and shall make recommendations to the President and the Congress on or before June 30, 1974, concerning improvements, changes, or alternative methods for delivery of the systems.

"RECORDS AND REPORTS

"SEC. 1008. (a) The Corporation shall have authority to require such reports as it deems necessary from recipients of grants or contracts.

"(b) The Corporation shall have authority to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records at all reasonable times for the purpose of insuring compliance with the grant or contract.

"(c) The Corporation shall publish an annual report which shall be filed by the Corporation with the President and the Congress.

"(d) Copies of all reports pertinent to the evaluation, inspection, or monitoring of recipients shall be maintained in the principal office of the Corporation for a period of at least five years subsequent to such evaluation, inspection, or monitoring. Such reports shall be available for public inspection during regular business hours and copies shall be furnished, upon request, to interested parties upon payment of such reasonable fees as the Corporation may establish.

"AUDITS

"SEC. 1009. (a) The accounts of the Corporation shall be audited annually. Such audits shall be conducted in accordance with generally accepted auditing standards by independent certified public accountants who are certified by a regulatory authority of the jurisdiction in which the audit is undertaken.

"(b) The audits shall be conducted at the place or places where the accounts of the Corporation are normally kept. All books, accounts, financial records, reports, files and other papers, things or property belonging to or in use by the Corporation and necessary to facilitate the audits shall be made available to the person or persons conducting the audits; and full facilities for verifying transactions with the balances and securities held by depositories, fiscal agents, and custodians shall be afforded to such person or persons. The report of the annual audit shall be filed with the General Accounting Office and shall be available for public inspection during business hours at the principal office of the Corporation.

"(e) In addition to the annual audit, the financial transactions of the Corporation for any fiscal year during which Federal funds are available to finance any portion of its operations may be audited by the General Accounting Office in accordance with such rules and regulations as may be prescribed by the Comptroller General of the United States. Any such audit shall be conducted at the place or places where accounts of the corporation are normally kept. The representatives of the General Accounting Office shall have access to all books, accounts, records, files, and all other things, papers or property belonging to or in use by the Corporation pertaining to its financial transactions and necessary to facilitate the audit, and they shall be afforded full facilities for verifying transactions with the balances or securities held by depositories, fiscal agents, and custodians. All such books, accounts, records, reports, files, papers, and property of the Corporation shall remain in the possession and custody of the Corporation. A report of such audit shall be made by the Comptroller General to the President and to the Congress, together with such recommendations with respect thereto as he shall deem advisable.

"(d) The Corporation shall audit or require each recipicent to provide for an annual audit. The report of each such audit shall be maintained for a period of at least five years at the principal office of the Corporation. The Comptroller General of the United States shall receive copies of such reports and may, in addition, inspect the books, accounts, records, files, and all other papers things, or property belonging to or in use by the recipients, which relate to the disposition or use of funds received from the Corporation. The audit reports shall be available for public inspection, during regular business hours, at the principal office of the Corporation. Notwithstanding this subsection, neither the Corporation nor the Comptroller General shall have access to individual case records subject to the attorney-client privilege.

"FINANCING

"SEC. 1010. (a) There are authorized to be appropriated such sums as may be necessary to carry out the activities of the Corporation. The first such appropriation may be made available to the Board at any time after six or more members have been appointed and qualified. Subsequent appropriations shall be for three-year periods or such other periods as appropriation acts may designate, and, if for more than one year, shall be paid to the Corporation in anual installments at the beginning of each fiscal year in such amounts as may be specified in the appropriation acts.

"(b) Where moneys are received by the Corporation or any recipient from funds not made available by the Corporation, they shall not be commingled with funds derived from appropriations under this Act.

"RIGHT TO REPEAL, ALTER OR AMEND

"SEC. 1011. The right to repeal, alter or amend this Act at any time is expressly reserved."

STATEMENT BY THE PRESIDENT

Two years ago I proposed the creation of a Legal Services Corporation as a means of delivering high quality legal assistance to those who would otherwise be unable to afford it. The need still exists, and today I am once again asking the Congress to establish this corporation.

I firmly believe that we must provide a mechanism to overcome economic barriers to adequate legal assistance.

Eight years ago a legal services program was initiated as a small experiment within the Office of Economic Opportunity. It grew rapidly and today more than 2,250 lawyers are assisting the needy in about 900 neighborhood law offices.

We have learned many lessons during this time. We have learned, for instance, that any Federally-sponsored effort which runs counter to State and local officials is sure to spark controversy. We have learned that Federal programs with noble social aims must be carefully structured to mitigate abuse by those who run them. But more than anything else, we have learned that legal assistance for the poor, when properly provided, is one of the most constructive ways to help them to help themselves. During this period, we have also learned that justice is served far better and differences are settled more rationally within the system than on the streets. Now is the time to make legal services an integral part of our judicial system.

When I asked the Congress in 1971 to create an independent Legal Services Corporation, I said that my proposal had three major objectives. Those same objectives apply to my proposal today:

"First, that the corporation itself be structured and financed so that it will be assured of independence; second, that the lawyers in the program have full freedom to protect the best interests of their clients in keeping with the Canons of Ethics and the high standards of the legal profession; and third, that the Nation be encouraged to continue giving the program the support it needs in order to become a permanent and vital part of the American system of justice."

Many of the features of the new legislation are also similar to those in the 1971 proposal:

The corporation would be non-profit and governed by a board of eleven members appointed by the President, with the advice and consent of the Senate. No more than six members could be of the same political affiliation, and a majority would have to be attorneys.

The corporation would be authorized to make grants or enter into contracts with individuals, partnerships, firms, organizations, and corporations, as well as with State and local governments for the purpose of providing legal assistance to eligible clients.

The corporation would be authorized to undertake research on the delivery of legal services and to serve as a clearinghouse for information on such services.

No funds provided by the corporation could be used with respect to criminal proceedings.

While engaged in legal assistance activities, attorneys would be barred from participating in political activities and from encouraging or participating in strikes, boycotts, picketing and various forms of civil disturbance.

In addition to these provisions, the new legislation contains several features which I believe represent an improvement over my 1971 proposal:

A nine-member advisory council would be established in each State, to be appointed by the Governor or, if he failed to act, by the national board. The State advisory council would maintain a continuing review of all legal service activities within its State and would report any program abuses to the national board.

Anyone could qualify for legal assistance under the program so long as his income were less than 200 percent of the poverty level and his lack of income did not result from a refusal to seek or accept a job.

The corporation would also be charged with responsibility for conducting a study of alternative ways of delivering legal services, such as judicare, vouchers, prepaid legal insurance, and contracts with law firms. A report of this study would be prepared and submitted to the President and the Congress no later than June 30, 1974.

I firmly believe that this bill merits the support of all who believe in a legal services program which gives the poor the help they need, which is free and independent of political pressures and which includes safeguards to ensure that it operates in a responsible manner.

America's system of law now requires equal treatment for all in our courts of criminal justice. It is no less important that equal access be afforded those who seek redress through our civil laws.

We propose no special favors for any group in our society, nor do we seek to mandate the use of the legal system to the exclusion of other social institutions as instruments of social progress. We propose, simply, to protect and preserve a basic right of all Americans.

STATEMENT OF SENATOR JACOB K. JAVITS

Through the establishment of a legal services corporation, the President's proposal puts us "back on the track" concerning the future of the essential legal services program as part of the Federal Anti-poverty program. I shall join in the introduction of the Administration's bill accordingly.

The President has "kept faith" through this proposal with the Administration's own legal services corporation idea, professionalizing the current efforts, and as I have urged, has rejected other schemes that apparently

had been under consideration which could serve to "politicize" the program by placing it almost entirely under State and local control.

While differences remain with respect to the particular terms and some elements of the proposal give me concern, there is now a renewed bi-partisan commitment by the Executive and the Congress together, for a legal services corporation and I am very hopeful that this very gifted concept, which has been frustrated for more than two years, can now be enacted into law at an early date.

While I am very heartened by the Administration's submittal it will not guarantee against a "hiatus" in the current legal services effort since the Administration has requested funding for the program, at the level of $71.5 million after July 1 of this year only if the new corporation is established. Even if we act swiftly on legislation to do so—as I shall urge—it is possible that such a corporation can not be ongoing by that date.

It is therefore essential that this commitment to a new corporation be coupled with a commitment, also joined in by the Executive and the Congress, for continued funding for the current legal services program in the interim so that the current program will not have its "back up against the wall" and continuity and vital services to the poor will not be lost in the transition to a new corporation.

Accordingly, in the context of the Second Supplemental Appropriations bill, soon to be considered in the Senate, I plan to seek—together with a number of my colleagues—advance funding for the current legal services effort with transfer of those funds to a new corporation once it is established and I hope that the Administration will support those efforts to overcome the last stumbling block to effective continuation of the program. I hope also that no changes will be made in the existing program with respect to the major elements pending establishment of the corporation.

U.S. SENATE,
COMMITTEE ON LABOR
AND PUBLIC WELFARE,
Washington, D. C., April 16, 1973.

The Honorable RICHARD M. NIXON,
The White House,
Washington, D.C.

DEAR MR. PRESIDENT: We are writing to you as supporters of the concept of a National Legal Services Corporation, which we believe to be the most effective means of providing equal justice under the law for Americans who are poor.

Although we may differ among ourselves on the precise form such a corporation should take, we share the objective expressed in last year's Administration bill, S. 1769, to establish a National Legal Services Corporation, with an independent board, making funding available directly to grantee programs. We believe this is a highly effective means of providing for a legal services program responsive both to the legal needs of the poor and to the general public.

Accordingly, we are pleased that your fiscal year 1974 budget submitted in January indicated that you have maintained your commitment to this concept and would transmit new legislation to that end.

However, we are concerned that your proposal has not been submitted to Congress as of this date and that in the interim, as a result, the effective operation of the current legal services program has been impaired by short-term funding and questions about its future.

We urge that legislation for a National Legal Services Corporation be transmitted in the immediate future, so that it, along with other proposals before the Congress, may be considered and acted upon at the earliest possible date.

We pledge that the Administration proposal will be given every consideration in order to promptly establish a National Legal Services Corporation to meet the vital needs for equal justice under our Constitution.

With best regards,

Sincerely,

Jacob K. Javits, Robert Taft, Jr., Richard S. Schweiker, Robert T. Stafford, Walter F. Mondale, Alan Cranston, Harrison A. Williams, Edward M. Kennedy.

COMPARISON OF MAJOR DIFFERENCES IN THE LEGAL SERVICES CORPORATION PROVISIONS

S. 1769 (introduced by Mr. Cook, et al, 92d Congress);
S. 706 Amendment No. 5 (intended to be proposed by Mr. Mondale, et al, 93rd Congress);
S. 1815 (introduced by Mr. Javits) Amendment No. 132 (intended to be proposed by Mr. Javits).

S. 1769 (92D CONGRESS)	S. 706—AMENDMENT NO. 5 (93D CONGRESS)	AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)
Legal Services Corporation	*National Legal Services Corporation*	*Legal Services Corporation*
1. Board of Directors.	Board of Directors.	Board of Directors.
[Sec. 902(a)].	[Sec. 904(a)].	[Sec. 4(a)].
The President appoints the 11-member Board of Directors, by and with the advice and consent of the Senate.	The President appoints the 19-member Board of Directors, by and with the advice and consent of the Senate.	The President appoints the 11-voting-member Board of Directors, by and with the advice and consent of the Senate.
No more than 6 of the 11-member Board shall be of the same political party. A majority shall be members of the bar of the highest court of a jurisdiction. None shall be a full time employee of the United States.	The 19 members shall be appointed as follows: (1) 10 members from the general public, not less than 6 of whom shall be members of the bar of the highest court of a Senate; (2) 5 members representative of the organized bar and legal education; (3) 2 members from among individuals eligible for assistance under this title; and (4) 2 members from among former legal services project attorneys. Certain, specified organized bar and legal education groups may submit recommendations to the President with respect to the 5 Board members representative of the organized bar and legal education. The Clients Advisory Council may submit recommendations to the President with respect to the 2 Board members from among those eligible for assistance under this title. The Project Attorneys Advisory Council may submit recommendations to the President with respect to the 2 Board members from among former legal services project attorneys.	No more than 6 of the 11-member Board shall be of the same political party. A majority shall be members of the bar of the highest court of any State. None shall be a full-time employee of the United States.
[Sec. 902(d)].	[Sec. 904(a)].	[Sec. 4(d)].
The Board selects a chairman from among its members—to serve for a 1-year term.	The Board elects annually, by majority vote, a chairman from among its members.	The President selects a chairman from among the voting members—to serve for a 1-year term.
[Sec. 902(e)].		[Sec. 4(e)].
A Board member may be removed by a vote of 7 members—*only* for malfeasance in office or persistent neglect of or inability to perform duties.		A Board member may be removed by a vote of 7 members—*only* for malfeasance in office or persistent neglect of or inability to perform duties.
	[Sec. 904(f)(1)].	
	No person who is a paid employee or consultant of the Corporation or its grantees may serve on the Board.	
	[Sec. 904(f)(2)].	

COMPARISON OF MAJOR DIFFERENCES IN THE LEGAL SERVICES CORPORATION PROVISIONS—Continued

S. 1769 (92D CONGRESS)—Continued *Legal Services Corporation*—Continued	S. 706—AMENDMENT NO. 5 (93D CONGRESS)—Continued *National Legal Services Corporation*—Con.	AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)—Continued *Legal Services Corporation*—Continued
	No Board member may participate in any decision, action, or recommendation with respect to any matter which directly benefits that member or any firm or organization with which that member is then currently associated.	Incorporating Trusteeship.
	[Sec. 904(e)].	[Sec. 4(g)].
	All meetings of the Board, the executive committee of the Board, and advisory councils shall, whenever appropriate, be open to the public. Proper notice of public meetings shall be provided to interested parties and the public.	All meetings of the Board, any executive committee of the Board, and advisory councils shall be open to the public—*unless*, by a ⅔ vote, the membership of a body determines that an executive session should be held on a specific occasion.
2. Incorporating Trusteeship. [Sec. 901(b)]. The initial Board of Directors establishes the Corporation.	Incorporating Trusteeship. [Sec. 903(b)] Establishes an Incorporating Trusteeship to be composed of the following persons or their designees: (a) the president of the American Bar Association; (b) the president of the Association of American Law Schools; (c) the president of the American Trial Lawyers Association; (d) the president of the National Bar Association; and (e) the president of the National Legal Aid and Defender Association.	
	[Sec. 903(c)].	
	The Incorporating Trusteeship shall establish the initial Clients Advisory Council and the initial Project Attorneys Advisory Council—after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title and associations of active legal services attorneys. Each initial Advisory Council is to be composed of 11 members selected in accordance with procedures, meeting certain requirements in the legislation, established by the Incorporating Trusteeship. The initial advisory councils shall be composed of, respectively, persons eligible for assistanve under this title and attorneys actively engaged in providing legal services under any existing legal services program.	
	[Sec. 903(e)].	
	The Incorporating Trusteeship shall incorporate the Corporation and prepare for the first meeting of the Board of Directors—*except for* the selection of the Corporation's Executive Director.	
3. Advisory Council. [Sec. 902(f)]. The Board of Directors shall appoint an *Advisory Council*. Advisory Council members shall include: (a) persons who meet client-eligibility standards; and (b) representatives of the organized bar. The Advisory Council shall: (a) be convened by the Corporation president at least twice annually; and (b) render advice to the Corporation on matters pertaining to the Corporation.	Advisory Councils. [Sec. 905(a)]. The Board of Directors shall provide for the selection of a *Clients Advisory Council* (subsequent to the initial Council established by the Incorporating Trusteeship)—after consulting with and receiving the recommendations of national organizations of persons eligible for assistance under this title. It shall be composed of not more than 11 members, selected in accordance with procedures, meeting certain requirements in the legislation, established by the Board of Directors from among those eligible for assistance under this title. It shall advise the Board of Directors and the executive director of the Corporation on policy matters relating to the needs of the client community and may act as a liaison with the client community through activities it deems appropriate. It may also submit recommendations to the President in regard to the appointment of the 2 Board members from among those eligible for assistance under this title. The Board of Directors shall provide for the selection of a *Project Attorneys Advisory Council* (subsequent to the initial Council established by the Incorporating Trusteeship)—after consulting with and receiving the recommendations of associations of active legal services attorneys.	Advisory Councils. [Sec. 4(f)]. The Board of Directors shall request the governor of each *State* to appoint a 9-member *advisory council* for the State. If a governor fails to appoint a State advisory council within 90 days of receiving the Board's request, the Board of Directors shall appoint a State advisory council. A majority of each advisory council's members shall be chosen from among lawyers admitted to practice in the State and all members shall be subject to annual reappointment. Each State advisory council shall be charged with notifying the Corporation of any apparent violation of the provisions of this Act and applicable rules and regulations.

S. 1769 (92D CONGRESS)—Continued

Legal Services Corporation—Continued

4. Lobbying and Political Activity.

[Sec. 904(d)(2)].

The Corporation shall have no authority to undertake to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies by representations to such bodies, their members, or their committees—*unless* such bodies, their members, or their committees request that the Corporation make representations to them.

[Sec. 905(a)(6)].

The Corporation shall insure:

(a) that *all* attorneys refrain from undertaking to influence the passage or defeat of any legislation by the Congress or State or local legislative bodies, their members, or their committees *while engaged in activities carried on by Corporation-funded legal services programs*—unless the attorney is requested to make representations; and

(b) that attorneys *employed full-time* by Corporation-funded legal services programs refrain from lobbying (as set forth in "(a)" immediately above) *at any time*—unless the attorney is requested to make representations.

[Sec. 905(a)(7)].

The Corporation shall insure:

(a) that *all* attorneys, *while engaged in activities carried on by Corporation-funded legal services programs,* refrain from:

(1) any partisan political activity associated with a candidate for public or party office or an issue specifically identified with a political party;

(2) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance with an

S. 706—AMENDMENT NO. 5 (93D CONGRESS)—Continued

National Legal Services Corporation—Con.

It shall be composed of not more than 11 members, selected in accordance with procedures, meeting certain requirements in the legislation, established by the Board of Directors from among attorneys actively engaged in providing legal services under this title.

It shall advise the Board of Directors and the executive director of the Corporation on policy matters relating to the furnishing of legal services. It may submit recommendations to the President in regard to the appointment of the 2 Board members from among former legal services project attorneys.

[Sec. 905(c)].

The Board of Directors shall provide sufficient resources for each advisory council.

Lobbying and Political Activity.

[Sec. 906(e)(1)].

The Corporation shall establish procedures and guidelines to insure that *no funds or personnel* made available by the Corporation are used to undertake to influence the passage or defeat of any proposed convention, constitutional amendment, code, statute, executive order, ordinance, regulation, rule, or similar enactment or promulgation considered in any form by any legislative body by representations to such body (or committee or member thereof) or any similar activity—*except where*—

(a) an attorney representing an eligible client is requested by the client to make a representation or undertake a similar activity *and* the representation or activity is carried out so as to *not* identify the Corporation or any Corporation-funded legal services program with such representation or activity; and

(b) personnel of the Corporation or any Corporation-assisted legal services program are requested by a legislative body (or committee or member thereof) to make representations or carry out a similar activity.

[Sec. 906(e)(2)].

Procedures established by the Corporation concerning the lobbying activities mentioned immediately above shall ensure that, where applicable, permitted representations and activities are undertaken in a manner consistent with the ABA Code and Canons.

[Sec. 906(e)(3)].

No Corporation-provided funds shall be used (a) for any activity planned and carried out to disrupt the orderly conduct of business by the Congress or State or local legislative bodies, (b) for any demonstration, rally, or picketing aimed at the famiy or home of a member of a legislative body for the purpose of influencing his actions as a member of that body, and (c) for conducting any advertising campaign through the commercial media to influence the passage or defeat of legislation.

[Sec. 907(d)(1)].

The corporation shall ensure that *all* employees of the Corporation or of Corporation-assisted legal services programs, *while engaged in activities carried on by the Corporation* or *Corporation-assisted programs,* refrain from:

(1) any partisan or nonpartisan political activity associated with a candidate for public or party office;

(2) any voter registration activity other than legal representation in civil judicial

AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)—Continued

Legal Services Corporation—Continued

Lobbying and Political Activity.

[Sec. 6(d)(2)].

The Corporation shall not undertake to influence the passage or defeat of any legislation by the Congress or by any State or local legislative bodies—*except that* Corporation personnel may testify when formally requested by a legislative body, or one of its committees or members.

[Sec. 7(a)(6)].

The Corporation shall insure that *no funds* made available to recipient programs are used at any time, directly or indirectly, to undertake to influence the passage or defeat of any legislation by the Congress or by any State or local legislative bodies—*except that* personnel of any recipient program may testify when formally requested by a legislative body, or one of its committees or members.

[Sec. 6(e)(4)].

Neither the Corporation nor any recipient program shall contribute or make available corporate funds, program personnel, or equipment for use in advocating or opposing any legislative proposals, ballot measures, initiatives, referendums, executive orders, or similar enactments or promulgations.

[Sec. 7(a)(7)].

The Corporation shall insure:

(a) that *all* attorneys, *while engaged in legal assistance activities supported in whole or in part by the Corporation,* refrain from:

(1) any political activity;

(2) any activity to provide voters or prospective voters with transportation to the polls or provide similar assistance in connection with an election (other than legal representation in civil or administrative proceedings);

COMPARISON OF MAJOR DIFFERENCES IN THE LEGAL SERVICES CORPORATION PROVISIONS—Continued

S. 1769 (92D CONGRESS)—Continued	S. 706—AMENDMENT NO. 5 (93D CONGRESS)—Continued	AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)—Continued
Legal Services Corporation—Continued	*National Legal Services Corporation*—Con.	*Legal Services Corporation*—Continued
election (other than legal representation in civil or administrative proceedings); (3) any voter registration activity (other than legal representation); and (b) that attorneys *employed full-time* in Corporation-funded legal services programs refrain from the activities enumerated above *at any time.*	or administrative proceedings *or* in connection with legal advice as to adherence to applicable local, State, or Federal registration requirements; and (3) any activity to provide voters or prospective voters with transportation to the polls. Employees of the Corporation or Corporation-assisted legal services programs or the Corporation-assisted program with any partisan or nonpartisan political activity associated with a candidate for public or party office.	(3) any voter registration activity (other than legal representation); and (b) that *all* attorneys *receiving a majority of their annual professional income from legal assistance activities supported in whole or in part by the Corporation* refrain from the activities enumerated above *at any time.*
[Sec. 905(b)(2)]. No funds made available by the Corporation, either by grant or contract, may be used for any of the political activities described above.		[Sec. 7(b)(2)]. No funds made available by the Corporation, either by grant or contract, may be used for any of the political activities described above.
	[Sec. 907(d)(2)]. Employees of the Corporation shall be deemed State or local employees for "Hatch Act" purposes. [Sec. 907(d)(3)]. The Corporation-assisted legal services programs shall be deemed State or local agencies for certain "Hatch Act" provisions (i.e. prohibitions on using authority or influence to interfere with or affect the result of an election or nomination; and directly or indirectly coercing, attempting to coerce, command, or advise a State or local officer or employee to pay, lend, or contribute anything of value to a party, committee, organization, agency, or person for political purposes). [Sec. 907(d)(4)]. The Board of Directors shall set appropriate guidelines for the private political activities of full-time employees of Corporation-assisted legal services programs.	
	[Sec. 907(e)]. The Corporation shall ensure that all employees of the Corporation or of Corporation-assisted legal services program, *while engaged in activities carried on by the Corporation or Corporation-assisted programs,* refrain from participation in and encouragement of others to participate in: (1) illegal demonstrations, picketing, boycott, or strike; (2) any form of direct action in violation of an outstanding court injunction; and (3) *any form of direct action designed to involve physical violence, destruction of property, or physical injury.*	[Sec. 6(d)(5)]. The Corporation shall insure that Corporation and recipient program employees *receiving a majority of their annual professional income from legal assistance under this Act* refrain from participation in, and encouragement of others to participate in, any of the following activities: (1) rioting, civil disturbance, picketing, boycott, or strike; (2) any form of activity which is in violation of an outstanding injunction of any Federal, State, or local court; or (3) *any illegal activity.*
[Refer to Enforcement of Provisions comparison].	[Sec. 907(f)]. The Board of Directors shall issue rules and regulations to provide for enforcement of provisions on the nonprofit-nonpolitical nature of the Corporation—including (in accordance with notice and fair hearing provisions): (a) provisions for emergency suspension of assistance to a Corporation-assisted program; (b) summary suspensions of an employee of the Corporation or any Corporation-assisted program; and (c) termination of assistance and employment as deemed appropriate.	The Board of Directors, within 90 days of this Act's enactment, shall issue rules and regulations to provide for the enforcement of the illegal activity limitations mentioned above. These rules shall include provisions for termination or summary suspension of legal assistance under this Act, and suspension or termination of compensation to an employee of the Corporation or an employee of any recipient program.
[Sec. 905(e)(3)]. The Corporation may not contribute to or otherwise support any political party or candidate for elective public office.	[Sec. 907(c)]. The Corporation may not contribute to or otherwise support any political party or candidate for elective public office,	[Sec. 6(e)(3)]. Neither the Corporation nor any recipient program shall *contribute or make available corporate funds, program personnel, or equipment to any political party, political association, or candidate for elective office.* [Sec. 7(b)(5)]. No funds made available by the Corporation, either by grant or contract, may be used to support or conduct training programs for the advocacy of, as distinguished from the dissemination of information about, particular public policies or which encourage political activities, labor or anti-labor activities, boycotts, picketing, strikes, and demonstrations. [Sec. 7(b)(6)]. No funds made available by the Corporation, either by grant or contract, may be used to organize, to assist to organize, or plan for, the creation or formation of, or structuring of, any organization, association, coalition,

S. 1769 (92D CONGRESS)—Continued
Legal Services Corporation—Continued

5. Criminal Representation.
[Sec. 905(b)(1)].
No funds made available by the Corporation, either by grant or contract, may be used to provide legal services with respect to *any criminal proceeding (including any extraordinary writ, such as habeas corpus and coram nobis, designed to challenge a criminal proceeding)*.

6. Outside practice of law.
[Sec. 905(a)(5)].
The Corporation shall insure that attorneys employed full-time in Corporation-funded legal services programs *represent only eligible clients and refrain from any outside practice of law.*

7. Solicitation.

8. Public interest law firms.
[Sec. 905(b)(3)].
No funds made available by the Corporation, either by grant or contract, may be used to award grants or enter into contracts which so-called "public interest law firms" which intend to expend at least *75% of their resources and time* litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both.

9. Notification prior to approval of a grant or contract.
[Sec. 905(f)].
At least 30 days prior to approval of any grant or contract application, the Corporation shall notify the *chief executive officer* of the State in which the recipient program will offer legal services. Notification shall include a reasonable description of the grant or contract application.

10. Approval of grants or contracts.
[Sec. 905(e)].
Grants and contracts shall be *made and refused* by the president of the Corporation—but the Board of Directors shall have authority to establish, by rules, which classes of grants or contracts it wishes to review and approve prior to action by the Corporation president.
(NOTE.—The Corporation president is appointed by the Board of Directors.)

11. Review of appeals.
[Sec. 905(a)(8)].
The Corporation shall establish guidelines for *a system for review of appeals* to be implemented by each recipient programs to insure the efficient utilization of resources and *to prevent the taking of frivolous and duplicative appeals.*

12. Governing boards of recipient programs.
[Sec. 905(c)].
In making contracts and grants for legal assistance, the Corporation shall insure that any recipient program organized solely for the purpose of providing legal services to eligible clients is governed by a body consisting of a *majority of lawyers.*

S. 706—AMENDMENT NO. 5 (93D CONGRESS)—Continued
National Legal Services Corporation—Con.

Criminal Representation.
[Sec. 906(i)].
No funds or *personnel* made available by the Corporation shall be used to provide legal services with respect to *any criminal proceeding.*

Outside practice of law.
[Sec. 906(d)].
The Corporation shall insure that attorneys employed full-time in Corporation-funded programs *refrain from any outside practice of law—unless permitted as pro bono publico activity pursuant to guidelines established by the Corporation.*

Solicitation.
[Sec. 906(f)].
The Corporation shall insure that no attorneys or other persons employed by it or employed or engaged in Corporation-funded programs, in any case, solicit the client community for professional employment.
No Corporation funds shall be expended in pursuance of any employment resulting from such solicitation.
Solicitation does not include mere announcement or advertisement that the Corporation is in existence and that its services are available *and* any conduct or activity permissible under the ABA Code and Canons.

Public interest law firms.

Notification prior to approval of a grant or contract.
[Sec. 960(h)].
At a reasonable time prior to approval of any grant or contract application, the Corporation shall notify the *State bar association* of the State in which the recipient program will offer legal services. Notification shall include a reasonable description of the grant or contract application and *request the State bar association for comments and recommendations* on the grant or contract application.

Approval of grants or contracts.

Review of appeals.
[Sec. 906(g)].
The Corporation shall establish guidelines for *consideration of possible appeals* to be implemented by each Corporation grantee or contractor to insure the efficient utilization of resources.
Such guidelines shall in no way interfere with the attorney's responsibilities and obligations under the ABA Code and Canons.

Governing boards of recipient programs.
[Sec. 906(b)(6)].
The Corporation is authorized to establish procedures for the conduct of Corporation-assisted legal services programs containing a requirement that the applicant will give assurances that the program will be supervised by a policymaking board on which *members of the legal profession constitute a majority*

AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)—Continued
Legal Services Corporation—Continued
alliance, federation, confederation, or any similar entity *except* as authorized by the Corporation.

Criminal Representation.
[Sec. 7(b)(1)].
No funds made available by the Corporation, either by grant or contract, may be used to provide legal assistance with respect to *a criminal proceeding or incarceration for a crime.*

Outside practice of law.
[Sec. 7(a)(5)].
The Corporation shall insure that attorneys employed full-time in legal assistance activities supported in whole or in part by the Corporation *represent only eligible clients and refrain from any outside practice of law.*

Solicitation.

Public interest law firms.
[Sec. 7(b)(3)].
No funds made available by the Corporation, either by grant or contract, may be used to award grants or enter into contracts with any public interest law firm which expends *any resources and time* litigating issues either in the broad interests of a majority of the public or in the collective interests of the poor, or both.

Notification prior to approval of a grant or contract.
[Sec. 7(f)].
At least 30 days prior to approval of any grant application or prior to entering into a contract, the Corporation shall notify the *Governor* (chief executive officer) and the *State bar association* of the State in which the recipient program will offer legal assistance. Notification shall include a reasonable description of the grant application or proposed contract and *request their comments and recommendations.*

Approval of grants or contracts.
[Sec. 7(e)].
Grants and contracts shall be *made or entered into* by the president of the Corporation *in the name of the Corporation,* but the Board of Directors may by rule establish classes of grants or contracts to be reviewed and approved by it prior to such action by the Corporation president.
(NOTE.—The Corporation president is appointed by the Board of Directors.)

Review of appeals.
[Sec. 7(a)(8)].
The Corporation shall establish guidelines for a system for review of appeals to be implemented by each recipient program to insure the efficient utilization of resources and *to prevent the taking of frivolous and duplicative appeals.*

Governing boards of recipient programs.
[Sec. 7(c)].
In making grants or entering into contracts for legal assistance, the Corporation shall insure that any recipient organized solely for the purpose of providing legal services to eligible clients is governed by a body consisting of a *majority of lawyers who are members of the bar of the State in*

COMPARISON OF MAJOR DIFFERENCES IN THE LEGAL SERVICES CORPORATION PROVISIONS—Continued

S. 1769 (92D CONGRESS)—Continued *Legal Services Corporation*—Continued	S. 706—AMENDMENT NO. 5 (93D CONGRESS)—Continued *National Legal Services Corporation*—Con.	AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)—Continued *Legal Services Corporation*—Continued
	and members of the client community constitute at least ⅓ of the board. *Waivers* in regard to the requirement for a majority of members from the legal profession may be granted by the Corporation to programs which have a majority of nonlawyer members on their policymaking boards upon the date of enactment of this Act.	*which the legal services are to be provided*
13. Independence of the attorney. [Sec. 904(c)(3)]. The Corporation shall not interfere with any attorney in carrying out his professional responsibility to his client or abrogate the authority of a particular jurisdiction to enforce the applicable standards of professional responsibility which apply to the attorney.	Independence of the attorney. [Sec. 906(a)(7)]. The Corporation is authorized to establish such procedures and take such other measures as may be necessary to assure that (a) attorneys employed by the Corporation and attorneys paid in whole or in part from Corporation-provided funds carry out the same duties to their clients and enjoy the same protection from interference as if such an attorney was hired directly by the client and (b) such attorneys adhere to the same ABA Code and Canons as are applicable to other attorneys.	Independence of the attorney. [Sec. 6(c)(3)]. The Corporation shall not interfere with any attorney in carrying out his professional responsibility to his client or abrogate the authority of a State to enforce the applicable standards of professional responsibility which apply to the attorney.
14. Eligility determination and fee schedules. [Sec. 905(a)(2)]. The Corporation shall establish guidelines to insure that eligibility of clients will be determined on the basis of factors including: (1) assets and income level; (2) fixed debts, medical expenses, and other factors affecting the client's ability to pay; (3) size of the client's family; (4) cost of living in the locality; and (5) such other factors as relate to financial inability to afford legal assistance.	Eligibility determination and fee schedules. [Sec. 906(a)(8)]. The Corporation is authorized to establish standards of eligibility for the provision of legal services by any recipient program—with special provision for members of the client community whose means are least adequate to obtain private legal services.	Eligibility determination and fee schedules. [Sec. 7(a)(2)]. The Corporation shall establish that an individual shall be eligible for legal assistance under this Act if his annualized gross income is less than 200% of the poverty level as defined by the OMB—except that no individual, capable of gainful employment, shall be eligibile if his lack of gross income results from his refusal or unwillingness to seek or accept employment.
The Corporation shall establish priorities to insure that those least able to afford legal services are given preference. [Sec. 905(a)(3)]. The Corporation shall establish a graduated fee schedule requiring the client, if able, to pay a portion of the cost of legal services.		[Sec. 7(a)(3)]. The Corporation shall establish a schedule of fees which will require the client, if able, to pay at least a portion of the cost of legal assistance. [Sec. 7(b)(4)]. No funds made available by the Corporation, either by grant or contract, may be used to provide legal assistance under this Act to any person of less than 18 years of age without formal written consent of one of the person's parents or guardians—*except that* if a person less than 18 has no parent or legal guardian, an attorney compensated under this Act may represent such person for the purpose of petitioning the court to request appointment of a guardian *ad litem*, with the written consent of a guardian *ad litem* necessary for continued provision of such legal assistance.
15. Reports, audits and access to records. [Sec. 906(c)]. The Corporation shall publish an annual report to be filed with the President, the Congress, and the Commissioner of the District of Columbia.	Reports, audits, and access to records. [Sec. 911]. The Corporation shall prepare an annual report for transmittal to the President and the Congress. The report shall: (a) summarize the activities of the Corporation and make recommendations as the Corporation deems appropriate; (b) include findings and recommendations on the preservation of the attorney-client relationship and adherence to the ABA Code and Canons in Corporation-assisted programs; and (c) include a comprehensive and detailed report of the operations, financial condition, and accomplishments of the Corporation—together with additional views and recommendations, if any, of members of the Board of Directors.	Reports, audits, and access to records. [Sec. 8(c)]. The Corporation shall publish an annual report to be filed with the President and the Congress.
[Sec. 906(a)]. The Corporation shall have authority to require reports as it deems necessary from recipients with which it has made grants or contracts.		[Sec. 8(a)]. The Corporation shall have authority to require reports as it deems necessary from recipients of grants or contracts.

S. 1769 (92D CONGRESS)—Continued

Legal Services Corporation—Continued

[Sec. 907].

The accounts of the Corporation shall be independently audited, annually. The report of the annual audit shall be filed with the GAO and shall be available for public inspection.

In addition to the annual independent audit, the GAO may audit the financial transactions of the Corporation. A report of any such GAO audit shall be made to the Congress and the President—together with such comments and recommendations as the Comptroller-General shall deem advisable.

The Corporation shall have a right to require an audit report from any recipient program with respect to funds received from the Corporation.

[Sec. 906(b)].

The Corporation shall have the authority to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records for the purpose of insuring compliance with the grant or contract.

[Sec. 907].

The independent auditor shall have access to all records of the Corporation.

The Comptroller-General shall have access to all Corporation records, reports from grantees and contractors, and records of the grantees and contractors.

[Sec. 907(d)].

Neither the Corporation nor the Comptroller-General shall have access to individual case records subject to the attorney-client privilege.

16. Enforcement of provisions.

[Sec. 904(c)(1)].

The Corporation shall have the authority to insure compliance of recipient programs, and their attorneys with this Act, the corporate charter, and bylaws, and to terminate funding where a recipient program fails to comply.

[Sec. 904(c)(2)].

If an attorney in a Corporation-funded program violates the provisions of this Act, or the charter, bylaws, or guidelines of the Corporation, the recipient program shall take appropriate disciplinary action.

17. Qualifications of attorneys.

18. Alternative methods of legal assistance.

S. 706—AMENDMENT NO. 5 (93D CONGRESS)—Continued

National Legal Services Corporation—Con.

[Sec. 910].

The accounts of the Corporation shall be independently audited, annually. The report of each annual audit shall be included in the Corporation's annual report. Certain requirements are set forth as to the scope of the independent annual audit.

In addition to the annual independent audit, the accounts and operations of the Corporation may be audited annually by the GAO. A report of each such GAO audit shall be made to the Congress and shall contain comments and recommendations as the Comptroller-General shall deem advisable.

The report of each such GAO audit shall also show specifically any program, expenditure, or other transaction or undertaking observed in the course of the audit which has been carried on or made without the authority of law.

[Sec. 908].

Copies of all records and documents pertinent to each Corporation grant or contract shall be available for public inspection.

Copies of all reports pertinent to the evaluation, inspection, or monitoring of grantees and contractors for at least 3 years. Upon request, to the extent authorized by the Corporation, the substance of such reports shall be furnished to grantees and contractors and may be made available to the President and Members of Congress.

[Sec. 910].

The independent auditor, the President, and Members of Congress shall have all Corporation records necessary to facilitate an audit made available.

The Corporation and the Comptroller-General shall have access, for the purpose of audit and examination, to any records of the grantees and contractors pertinent to Corporation assistance.

[Sec. 910].

All provisions permitting access to the records of grantees and contractors are qualified with the phrase: "consistent with the necessity of maintaining the confidentiality required by the best standards of the legal profession."

Enforcement of provisions.

[Sec. 914].

The Board of Directors shall prescribe procedures to insure that financial assistance will not be suspended for failure to comply with applicable terms and conditions, except in emergency situations, unless the recipient program has been given reasonable notice and opportunity to show cause why such action should not be taken.

The Board of Directors shall prescribe procedures to insure that financial assistance shall not be terminated, refunding denied, or emergency suspension continued over 30 days—unless the grantee or contractor has been afforded reasonable notice and an opportunity for a timely full and fair hearing.

[Also refer to lobbying and political activity comparison—sec. 907(f)].

Qualifications of attorneys.

Alternative methods of legal assistance.

AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)—Continued

Legal Services Corporation—Continued

[Sec. 9].

The accounts of the Corporation shall be independently audited, annually. The report of the annual audit shall be filed with the GAO and shall be available for public inspection.

In addition to the annual independent audit, the GAO may audit the financial transactions of the Corporation. A report of any such GAO audit shall be made to the President and the Congress—together with such comments and recommendations as the Comptroller-General shall deem advisable.

The Corporation shall audit or require each recipient program to provide for an annual audit.

[Sec. 8(b)].

The Corporation shall have authority to prescribe the keeping of records with respect to funds provided by grant or contract and shall have access to such records for the purpose of insuring compliance with the grant or contract.

[Sec. 9].

The independent auditor shall have access to all records of the Corporation

The Comptroller-General shall have access to all Corporation records, reports from grantees and contractors, and records of the grantees and contractors.

[Sec. 9(d)].

Neither the Corporation nor the Comptroller-General shall have access to individual case records subject to the attorney-client privilege.

Enforcement of provisions.

[Sec. 6(c)(1)].

The Corporation shall have the authority to insure compliance of recipient programs and their employees with the provisions of this Act, the corporate charter, and bylaws, and to terminate, after a hearing, financial support to a recipient program which fails to comply.

[Sec. 6(c)(2)].

If an employee of a recipient program violates or causes the recipient to violate the provisions of this Act or the charter, bylaws, or guidelines of the Corporation, the recipient program shall take appropriate disciplinary action.

Qualifications of attorneys.

[Sec. 6(c)(4)].

No attorney shall receive compensation, either directly or indirectly, for the provision of legal assistance under this Act, unless such attorney is admitted to practice law in the State where the rendering of such assistance is initiated.

Alternative methods of legal assistance.

[Sec. 7(g)].

COMPARISON OF MAJOR DIFFERENCES IN THE LEGAL SERVICES CORPORATION PROVISIONS—Continued

S. 1769 (92D CONGRESS)—Continued *Legal Services Corporation*—Continued	S. 706—AMENDMENT NO. 5 (93D CONGRESS)—Continued *National Legal Services Corporation*—Con.	AMENDMENT NO. 132 TO S. 1815 (93D CONGRESS)—Continued *Legal Services Corporation*—Continued
		The Corporation shall insure that no less than 10% of the monies it expends in any year shall go to activities which are non staff attorney oriented. [Sec. 7(h)]. The Corporation shall conduct a study of alternative methods of delivery of legal services to eligible clients including judicare, vouchers, prepaid legal insurance, and contracts with law firms, and shall make recommendations to the President and the Congress on or before June 30, 1974, concerning improvements, changes, or alternative methods for delivery of such systems.
19. OMB and OEO reviews and comments.	OMB and OEO reviews and comments. [Sec. 913(b).] Nothing in the section (913) prohibiting Federal control over the Corporation or its grantees or contractors shall be construed as limiting the authority of the OMB or the OEO to initiate and conclude necessary reviews respecting adherence to the provisions of the title *and* to review and submit comments upon the Corporation's annual budget request at the time it is transmitted to Congress. These reviews shall be conducted in accordance with the ABA Code and Canons.	OMB and OEO reviews and comments.
20. Financing. [Sec. 908] Authorizes such sums as may be necessary. Allows for 3-year appropriations or periods as the appropriations acts may designate—but paid in annual installments.	Financing. [Sec. 909.] Authorizes such sums as may be necessary (in addition to sums reserved and made available from Economic Opportunity Act appropriations). Funds are to remain available until expended. [Sec. 4.] In addition, authorizes $50 million for FY 1974 (above those authorized for OEO's Legal Services Program in the Economic Opportunity Amendments of 1972) *and* authorizes $171.5 million for FY 1975.	Financing. [Sec. 10(a).] Authorizes to be appropriated such sums as may be necessary to carry out the activities of the Corporation. The first appropriation may be made available to the Board of Directors at any time after six or more members have been appointed and qualified. Subsequent appropriations shall be for 3-year periods or such other periods as the appropriations acts may designate—but paid in annual installments. [Sec. 10(b).] Where moneys are received by the Corporation or any recipient from funds not made available by the Corporation, they shall not be comingled with funds derived from appropriations under this Act.

Mr. NELSON. Mr. President, I join with Senator JAVITS in introducing the administration's proposed Legal Services Corporation legislation.

Over the last several years there has developed a consensus that the program of legal services for the poor needs to be insulated from the political process so that legal services attorneys are able to carry on their responsibility to provide meaningful representation to protect the rights and interests of the poor without interference.

In seeking to accomplish that broadly supported objective, bills were considered in the last Congress to establish a Legal Services Corporation outside of and independent of any Federal agency. During the conference committee's sessions on the extension of the Economic Opportunity Act last fall, it became clear that differences among the House and Senate conferees and the administration could not be resolved at that time, particularly regarding the manner of appointing the board of directors of the corporation.

As chairman of the Subcommittee on Employment and Poverty, I promised at the time the Senate adopted the conference report that I would schedule consideration of legislation for a Legal Services Corporation in the current session of Congress, and that I would cooperate in every way I could with the administration to seek to resolve the issues which we were not able to work out last year. Senator JAVITS joined me in making that commitment.

In presenting its budget for fiscal year 1974, the administration proposed to end the Office of Economic Opportunity. The OEO has been the agency carrying out the legal services program since it began. If the operations of the OEO are ended or transferred to other agencies, the legal services program could be left without an administrative home. There is widespread agreement that the fate of the legal services program must not be allowed to become entangled in the resolution of the controversy over the continued existence of the Office of Economic Opportunity. Therefore, it has become imperative that the issues dividing those who favor a Legal Services Corporation be resolved as speedily as possible.

In that spirit I very much welcome the Legal Services Corporation bill that has just been sent to the Congress. We will want to give the language of the proposed legislation careful consideration. But let me say at this time that it provides what is most important—the opportunity to get started on enacting a Legal Services Corporation law.

Mr. President, the 30th of June is a short 6 weeks away. I believe it is possible to enact a Legal Services Corporation bill by that time, but it will require the prompt attention of and a cooperative attitude among all those who participate. I am confident, now that we have the administration's proposed new legislation, that the effort to create a Legal Services Corporation can, at long last, come to fruition this summer.

By Mr. PASTORE (for himself, Mr. COTTON, and Mr. HOLLINGS):

S. 1816. A bill to amend the Wool Products Labeling Act of 1939 with respect to recycled wool. Referred to the Committee on Commerce.

Mr. PASTORE. Mr. President, the bill which I introduce will amend the Wool Products Labeling Act of 1939 by substituting the designation "recycled wool" for the present designations used in the act of "reprocessed wool" and "reused wool."

This is the only amendment to the act covered by this bill. The definition of "wool" in the act is not changed in any way.

The term "recycled" is proposed in lieu of the terms "reprocessed" and "reused" because it is a more accurate description of the process used.

The raw material for reprocessed wool

comes from wool clippings and other wool products left over from manufacturing processes and then recycled to its fibrous state. The raw material for reused wool stock comes from wool used in a wool product which has been used by the consumer and is then recycled to its fibrous state. The resulting fibers in each case are fibers of wool which are then made again into cloth, felt or some other wool product. As with wool or other fibers, the recycled wool fiber is frequently blended or combined with other fibers to produce the final product.

Briefly, the steps in the recycling of wool are as follows:

Wool clippings and wool clothing or other wool products are carefully sorted into more than two hundred classifications before they are made into new cloth, felt or other product. To prepare fibers for recycled wool, discarded wool products are first divided into those in good condition and those in poor condition. Products which are not suitable for fabrics are used for certain industrial purposes and for roofing material.

The processed or used wool products are further graded. Knitted materials are separated from woven goods, woolens from worsteds. Pockets or linings of cotton or other materials are removed. The material is then sorted by color to permit its use where feasible without removing dyes. The material is usually carbonized which removes nonwoolen fibers and is thoroughly scoured to remove all soil and dirt. This makes the material completely sanitized.

After sorting has been completed, the products are placed in a machine that picks out the fibers to produce wool stock. Clippings from cutting tables in garment plants are likewise sorted and graded in preparation for recycling.

Wool cloth, whether of 100 percent new wool or of recycled wool, is woven or otherwise fabricated in the same way. Wool stocks, both new wool and recycled wool, are blended to produce yarn which is then woven, knitted or are blended for felt or other products. Fabrics are washed repeatedly to remove oil that is used to lubricate the fibers and all dirt that may be in the fabrics and shrink it. It is then dried in an oven at 240 degrees and finally sheared, finished, pressed and ready for the manufacturer or home sewer.

The wool fibers are truly recycled, being entirely rebuilt into yarn, fabrics and felt, and finally into useful products for apparel, the home or for industry. Recycled wools are used primarily in heavy winter clothing, gloves, caps, felts and blankets. About 11 percent are used for carpets and rugs.

About 26 million pounds of these recycled wool fibers are used annually in the woolen system in the United States. About 12 percent or 3.6 million pounds are reused and the balance is reprocessed. The wool felt industry uses an estimated 7.5 million pounds of recycled wool in addition.

The wool textile industry supports the bill. Spokesmen for the industry believe that products made with recycled wool should be so labeled. The term "recycled" is a more up-to-date and a more accurate term and is understandable to the consumer.

By Mr. HUMPHREY:

S. 1817. A bill to alleviate the financial crisis confronting the public schools of the Nation by providing grants and loan guarantees for the construction of elementary and secondary schools, by providing increased financial resources for elementary and secondary education and by promoting the equitable distribution of such resources within the States through the establishment of a National Educational Trust Fund, and to establish a Department of Education. Referred to the Committee on Labor and Public Welfare.

NATIONAL EDUCATION INVESTMENT ACT OF 1973

Mr. HUMPHREY. Mr. President, today I am introducing legislation which provides for the launching of decisive Federal action to address the critical problems confronting school districts across the Nation.

Entitled the National Education Investment Act of 1973, this bill can assist substantially the establishment of a new education policy for America—a policy to guarantee that all children and youth, without regard to circumstances of residence, family income, or race will have a full and equal opportunity to obtain a quality education.

The four titles of the National Education Investment Act are designed to supplement targeted Federal assistance to disadvantaged children under the Elementary and Secondary Education Act—programs which I firmly believe must be extended by Congress, contrary to administration proposals that they be terminated upon the expiration of authorizations at the end of the current fiscal year.

The titles of my bill would provide for—

First, direct Federal grants for the construction or modernization of schools serving areas with high concentrations of lower-income families;

Second, loan guarantees and interest subsidies to tap major private investment resources to assist school districts across America that have increasingly experienced high debt service costs, or voter turndowns of bond referendums for vitally needed school construction, due to resulting increased local taxes—most recently, only about half of the bond referendums proposed by local jurisdictions in Minnesota have been approved by residents;

Third, the establishment of a national educational trust fund in the Treasury, from which payments would be made to State and local jurisdiction applicants which agree to substantially reduce or eliminate the taxation of real property for the purpose of financing elementary and secondary education, under a program which would promote progressive tax reform in the State and the improvement and balancing of per pupil expenditures among all local school districts; and

Fourth, the establishment of a Cabinet-level Department of Education, to concentrate Federal resources and programs on carrying out essential national education priorities.

The title of the National Education Investment Act indicates the fundamental commitment that must be made to increasing the Federal investment in education to one-third of all public resources.

By contrast, the administration's proposals constitute a profoundly disturbing retreat from even the present minimal commitment by the Federal Government to assisting elementary and secondary schools with critical needs across our country. With the seriously misleading title, the Better Schools Act, the legislation submitted by the administration would cut back Federal assistance to education by well over $500 million, in comparison to funds provided under the Elementary and Secondary Education Act in fiscal 1972. Categorical assistance to Minnesota would be slashed by over $9 million—an incredible prospect that will also be confronted by most other States.

I am deeply disturbed that the administration's budget for fiscal 1974 would allow only 2 cents out of the Federal dollar to be spent for all education needs in America.

By direct contrast, the National Education Investment Act proposes that a major advance be launched in Federal policies toward education. It is not the final answer—a number of other important legislative proposals have been made toward the achievement of this objective which is so vital to the future of our Nation.

However, the legislation which I am introducing today has several characteristics which merit the most serious consideration by Congress.

First, it proposes direct measures to address profound problems—the need for up-to-date school facilities, for ending the unconscionable inequality where a child's education is made dependent on the wealth or poverty of his or her community, and for coordinating numerous Federal programs and concentrating Federal assistance to meet crucial educational needs.

Second, this bill is comprehensive, addressed both to overcoming major fiscal resource disparities among school districts, which undermine equality of educational opportunity for all American children, and to pinpointing special education needs of children which for too long have received a totally inadequate response—including the needs of preschool children, of mentally or physically handicapped children, and of educationally deprived children in areas of poverty.

Third, the National Education Investment Act presents clearly defined measures and a definite time schedule for addressing all these problems—not through just providing more Federal dollars, but through using Federal assistance as leverage to promote counterpart efforts by State and local governments and by the private investment sector. It calls for a total national effort on behalf of our children.

I urge Congress to take action on this priority national agenda for education without delay.

Mr. President, it is necessary that two subjects be addressed directly with respect to this legislation.

First, the issue of tax reform within the States, and the issue of finding adequate revenues to pay for our schools, must not be dealt with as separate matters, in any

legislation before Congress. These issues must be seen as a single, major problem demanding a comprehensive solution. On the other hand, it must not be the function of the Federal Government to dictate the answers, but rather to provide a strong incentive for the States and local jurisdictions to find equitable and constructive solutions. I believe the National Education Investment Act provides an effective program to address tax reform and education financing issues simultaneously, and to encourage State and local governments to accept the primary responsibility for carrying out this task.

Second, the issue of maintaining local control of schools should be addressed fairly and honestly. Some may view this issue as a slogan without adequate philosophical substance or clear definition, or as being used to justify resistance to school desegregation, or as being divorced from reality where school districts are increasingly finding it almost impossible to fund rising school costs and must depend more and more on outside financial resources.

However, this issue also reflects a deep feeling, a strong belief, of our people in cities and towns across America about local responsibility for the education of children. My bill undertakes to respect this belief, subject to the assurance that an equal opportunity will be provided for all children to obtain an education of high quality.

The National Education Investment Act does call upon State and local educational agencies to specify school-age populations being served and to indicate the scope of educational services, in accounting for the use of Federal assistance. And it does place requirements upon such agencies to implement and carry out certain educational programs for groups of children who have been neglected or inadequately served. But most importantly, this bill takes the basic view that States and localities should now be enabled, through the provision of adequate and dependable Federal assistance—as intended, for example, by the establishment of a National Educational Trust Fund—to work out their own answers to the unique problems they confront in guaranteeing the right of every child to a quality education.

Mr. President, I ask unanimous consent that the following items be printed at this point in the RECORD. First, excerpts from an address on establishing an action agenda for education, which I recently delivered before a conference of the District seven PTA in Minnesota. Second, a summary of the National Education Investment Act, prepared by my office. And third, the text of the bill.

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

REMARKS BY SENATOR HUBERT H. HUMPHREY

The Education of our children and youth will shortly become a central issue in Washington. The Congress must take action on Legislation to continue Federal programs of assistance to education, prior to the expiration of the Elementary and Secondary Education Act on June 30, 1973.

Some might take comfort in reflecting that we have passed the point where it is necessary to argue about whether or not there should be a federal interest in education—the debate that raged in the '40's and '50's.

It was, of course, a false issue, for the federal Government has been involved in the support of public schools since 1783, when under the Articles of Confederation the government set aside two sections of land out of every township for the support of public schools.

However, my purpose tonight is to suggest to you in the strongest possible terms that the issue is still very much alive. The question that must be faced squarely by Congress is whether there will be a regression of federal support for education, under budget and legislative proposals by the present administration.

A recent issue of the Bulletin of the National Congress of Parents and Teachers, entitled "What's Happening in Washington?" states at the outset that "school finance is still a top priority subject."

I strongly believe it should be a top priority subject, but I frankly do not see this concern being expressed by the White House.

The Senate Subcommittee on Education is presently working on legislation to extend the Elementary and Secondary Education Act—a draft bill, S. 1539, on which revisions will be made prior to Senate floor consideration. It was with a deep sense of personal fulfillment that as Vice President, I witnessed the signing of the ESEA into law in 1965—for it brought to fruition a number of legislative proposals I had sponsored during my previous 16 years in the Senate.

Despite claims to the contrary by the present Administration and despite constant delays in funding and chronic underfunding, the Elementary and Secondary Education Act has been effective in improving education for millions of disadvantaged children.

Strong support for the extension of programs under this Act has been expressed by the PTA, the national Education Association, the National School Boards Association, the Council of Chief State School Officers, and school administrators.

But the Administration wants to scrap these programs. Instead, it has submitted proposed legislation that in name only, and definitely not in substance, is to be called the Better Schools Act (S. 1319/H.R. 5823). This is basically the same proposal that was pushed by the Administration last year as special revenue sharing for education—a proposal which Congress firmly rejected.

The Administration bill purports to combine some 32 present education programs into consolidated grants to the States, and it would allegedly permit the States to determine how to use the funds, without federal direction.

That sounds attractive. But let us look at the facts of the matter.

As to actual federal assistance to local school districts, Secretary of Health, Education, and Welfare Weinberger has admitted that the Administration's Bill would authorize $508 million *less* than was provided for under the Elementary and Secondary Education Act in fiscal 1972. Other sources estimate a cutback of up to $600 million. And Commissioner of Education Ottina has admitted that under the Better Schools Act, one million fewer disadvantaged children would be served than this year.

The Administration states that school districts would receive at least 50 percent of the funds they receive in fiscal 1973 for the disadvantaged. But districts which received $10,000 or less this year—and that includes many Indian and other small isolated rural schools—would be eliminated entirely from federal assistance.

Now, what about federal direction?

Despite claims that the Better Schools Act would reduce so-called existing federal control, the bill requires that 75 percent of the funds it would authorize must be spent for basic reading and mathematics. That sounds like a pretty clear and final federal directive to me on what should be taught in our schools.

While I personally would hope that schools will continue to concentrate on reading and mathematics, I do not believe the federal government should dictate to local school officials how they should design the curriculum.

Meanwhile, how finely will the remaining portion of the thinned down federal education assistance dollar be cut up?

Funds for education of the handicapped, for vocational education, and for supportive services—meaning libraries and guidance counselling among others—would be combined under the Better Schools Act into one allocation to the States based on their respective school-age populations. Of this amount, 43 percent is to be used for vocational education, but even the better part of that can be diverted to other purposes, if necessary, under a further provision. And handicapped children can expect only 16 percent of this limited federal assistance.

As you may know, the Administration also proposes to terminate the Category "B" program of aid to federally impacted areas in one stroke, leaving a large number of school districts suddenly facing a critical budget deficit.

But Category "A" aid will also be cut back substantially, for school districts where parents both live and work on Federal property—property which cannot be taxed by local governments.

Major accomplishments in Minnesota would be seriously set back by further provisions in the Better Schools Act which would terminate programs under the Elementary and Secondary Education Act—no further assistance for libraries and textbooks, no experimental programs, no assistance for administrative improvements in State education agencies.

I am advised by the Minnesota Department of Education that the Administration's Better Schools Act would mean an actual loss to our State of over $9 million in comparison to categorical assistance received in fiscal year 1972.

It is all well and good to have Federal program consolidation that insures more effective utilization of resources. But it is dead wrong to propose a consolidation that is a cover-up for the substantial reduction of programs for our most needy children. And let it be clear that this will be the net effect of the Better Schools Act, despite provisions to earmark $1.5 billion for educationally disadvantaged children and allegedly to "hold harmless" all States and local districts at not lower than fiscal 1973 funding levels under ESEA Title I.

The Administration is adamant that this restrictive program be substituted for the Elementary and Secondary and Vocational Education Acts. But I believe a majority in Congress is equally determined not to accept the totally mis-labelled Better Schools Act.

But the point I want to make tonight is that this should not just be a fight between the Administration and Congress. It must, in fact, be *your* fight as well.

Up to now, I've been talking about emergency legislative situations—actions that must be taken to prevent further regressions in policies and priorities of the Administration with respect to education.

But there is also an emergency situation at the grassroots level of America that demands the attention of Congress. I am referring to the fundamental issue of school finance—finding the revenues to meet rising education costs in our communities.

Of the $47 billion spent for schools last year, 52 percent came from local taxes. There is no question but that the regressive local property tax is regarded by the American people as the most unpopular tax in our Nation.

A recent national survey found this tax to

be 2½ times more unpopular than even the Federal income tax.

Meanwhile, this tax, used primarily to finance our schools, has worked to make the quality of a child's education a function of the comparative wealth or poverty of the child's community. The recent 5-to-4 decision of the U.S. Supreme Court in San Antonio Independent School District v. Demetrio P. Rodriguez to the contrary, there is a serious nationwide problem of educational disparity resulting from this method of financing, that works out to discriminatory treatment of children. This situation demands corrective legislative action in Washington as well as in our State capitals.

Beyond this fact, however, it is clear that local school districts are being more and more hard pressed to find the funds to meet rising school costs.

They have looked for help to the Federal Government, with the most advanced and effective revenue collection system in the world. But their petitions to the present Administration for the redress of profound grievances have gone unanswered.

The present Administration is rightly concerned to place a limit on the level of Federal spending. No one argues with that fiscal objective. So do not be misled that this is the issue. No, the real issue is what categories of spending will be held back, slashed, while others are quietly increased.

The issue is why defense spending and foreign military assistance and certain other programs should be increased by some $10 billion, while funds for domestic human welfare programs—services to American people in serious need—are cut back by an equivalent amount.

The issue is why this Administration has failed to propose a program of genuine tax reform to lift some of the heavy tax burden off the backs of middle class families, and to produce at least $5 billion in new revenues that could be applied to meeting our critical needs at home.

It was to address this issue directly that I introduced the national priorities resolution, Senate Concurrent Resolution 14. Attention has been focused on this resolution because, while calling for a fiscally responsible budget for fiscal 1974, it also places Congress clearly on record for reductions in non-essential military expenditures and for a reformed tax system. And it would provide a means for meeting our needs in education, in health care, in public employment, in housing and the revitalization of our cities, and in rural economic development and pollution control.

But I believe Congress must also directly confront the issue of financing our schools. And I firmly believe that Congress should seize this opportunity to draft a new education policy for America—a policy committed to addressing effectively the crisis in our schools; and a policy to guarantee that all children and youth, without regard to circumstances or residence, family income, or race will have a full and equal opportunity to obtain a quality education.

Primarily, this new policy should be directed now toward paying the cost of a quality education at all levels—by substantially increasing the federal investment in education to one-third of all public resources. It is unconscionable that only 2 cents out of the federal dollar, or slightly more than $5 billion, would go for education under the Administration's budget for fiscal 1974.

In the near future, I will introduce the National Education Investment Act, to launch a major initiative toward establishing the new education policy for America that I regard as essential in the present decade.

The National Education Investment Act, supplementing the programs of targeted federal assistance under the Elementary and Secondary Education Act, would meet the serious problem of inadequate, obsolescent, and rundown school facilities in depressed areas, by providing for federal grants for the modernization and construction of elementary and secondary schools.

It would address the frequent condition of overcrowded classrooms and the high rate of voter turn-downs of bond referendums, as well as high debt service costs, for financing new and expanded public education facilities. To help solve these serious problems, this bill would provide for a major incentive for private sector investment in this vitally important area.

It would authorize federal loan guarantees and interest subsidies to be provided through a trust fund established in the U.S. Treasury.

And it would end the inherent disparity and injustice of making a child's education dependent on the wealth of the school district he or she happens to live in, by establishing a National Educational Trust Fund with an authorization of $20 billion. Payments from the National Educational Trust Fund by the Secretary of the Treasury to State and local governments would be tied to the reduction of the property tax as the major source of financing for elementary and secondary education. Last year, almost nine-tenths of local spending for schools, or $21 billion, came from the property tax.

Second, these trust fund payments would also be tied to the improvement and overall balancing among school districts of per-pupil expenditures, but without penalizing high-cost or high-expenditure districts.

Finally, the National Education Investment Act would firmly establish the priority that education needs must have in our national policies, by providing for the establishment of a Department of Education. This further strengthening and consolidation of federal resources and programs for educational assistance, beyond affirmative measures taken in the enactment of the Education Amendments of 1972, is of the greatest importance.

This legislation can further the major initiatives taken by Minnesota in promoting a balance among local school district per-pupil expenditure efforts, making our State a model for other States to follow.

But such legislative efforts cannot succeed on their own. They must have public support. Now, perhaps more than ever before in the history of our Nation, the voice of the people must be heard.

The Administration and Congress must know of your concern that a fundamental reordering of national priorities is of vital importance. They must know that you expect our Government to govern with integrity and with concern for the future.

It is to organizations of people like the PTA that we must look for positive action. If you and the nine million like you in PTA's throughout the country do your part, along with millions of other citizens, I am confident that America will enter its third century with great expectations realized, with great opportunities for our children and their children in a world of peace and freedom.

National Educational Investment Act of 1973

(Introduced by Senator Hubert H. Humphrey)

SUMMARY

TITLE I

Provides for Federal grants for construction and acquisition of facilities and equipment for schools serving children of low-income families. Amends Public Law 815, Eighty-First Congress, to add a new Title II, cited as the "Elementary and Secondary School Construction Act of 1973." Designates Federal financial assistance to local educational agencies serving areas with concentrations of children from low-income families, to construct, reconstruct, renovate, and improve elementary and secondary school facilities (including pre-school facilities) so as to meet more effectively the special educational needs of educationally deprived children. Authorization period: July 1, 1973 through June 30, 1977. Authorizes such sums as may be necessary for Federal grants to local educational agencies under a formula based upon children of low-income families and certain other categories. Sets forth basic criteria and State application requirements.

TITLE II

Establishes a program of Federal loan guarantees and interest subsidies for construction and acquisition of facilities for elementary and secondary schools. Authorization period: January 1, 1974 through June 30, 1977. Amount of authorizations: $2.5 billion in fiscal year 1974, and for the succeeding fiscal year. Establishes in the Treasury an Elementary and Secondary School Facility Construction and Acquisition Loan Guarantee and Interest Subsidy Fund to be made available to the Commissioner of Education for the purpose of guaranteeing loans and making interest subsidy payments, on behalf of State and local educational agency applicants, to non-Federal lenders making loans to such agencies. Stipulates interest-differential for reduction of borrowing costs borne by such agencies, and sets forth criteria and limitations for assistance under this title to enable such agencies to meet capital outlay obligations. Provides for appropriate measures to protect the financial interests of the United States, and to assure that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency. As in title I, labor standards and nondiscrimination provisions are stipulated. In addition to regular reporting requirements, provides for a consolidated report to be made by the Commissioner to the Congress, on assistance authorized under this title, not later than January 1, 1977.

TITLE III

Establishes a National Educational Trust Fund in the Treasury, from which the Secretary of the Treasury will make payments to State and local jurisdiction applicants, to enable such applicants to substantially reduce or eliminate the taxation of real property for the purpose of financing elementary and secondary education, during an initial authorization period beginning January 1, 1974 and ending with the close of June 30, 1977. Level of authorizations: $10 billion in each of fiscal years 1974 and 1975, and such sums as may be necessary to carry out the purposes of this title, for fiscal years 1976 and 1977. Provides that during the first and second fiscal year for which application is made, Federal payments shall not exceed (1) the amount of funds received by the applicant from the taxation of real property during the last full fiscal year of the applicant when such funds were raised by such taxation for the purpose of financing elementary or secondary education, or; (2) the amount of funds for that year which an applicant in a State would require in order to expend for elementary and secondary education an amount per pupil which is equal to the applicable target per pupil expenditure for that applicant, as further provided (basically, increases and balances per pupil expenditures among local school districts, without penalty to high-cost or high-expenditure areas, while focusing increased assistance on areas of educational deprivation), whichever is greater.

Provides that to be eligible to receive payments under this title in any fiscal year, an applicant must (1) eliminate the taxation of real property, for the purpose of financing elementary and secondary education, on the first $30,000 of assessed value of resident owned domiciles where the head of household

or immediate survivor is dependent upon certain forms of fixed retirement income, and (2) reduce real property taxes and rent constituting real property taxes upon an individual's homestead (where such taxes are used to finance elementary and secondary education) to not more than 5 per centum of that individual's income.

Federal payments under this title in the second fiscal year for which application is made, and thereafter, are made further contingent upon appropriate certification by the State of the applicant that in the preceding fiscal year, all local educational agencies in the State had per pupil expenditures which met the required level for elementary and secondary school children, as provided under this title. Moreover, the applicant must have planned and will carry out programs to meet identified needs for early childhood development, vocational education, comprehensive educational programs designed to meet the special education needs of mentally or physically handicapped children and children with specific learning disabilities, and compensatory education for children who are educationally deprived. Provision is made for an incentive increase of 10 per cent in payments to an applicant to meet such obligations, and for the withholding of 20 per cent of the payment for which the applicant would otherwise be eligible, where such obligations have not been assumed.

Provides that in the third fiscal year for which application is made, or in any fiscal year for which application is made by a State which meets certain enumerated requirements, including the presentation of a State plan under which specific obligations are assumed, only the State will be eligible to apply for Federal payments from the trust fund. The amount of payment to such State shall be equal to 33⅓ per cent of the expenditures for elementary and secondary education by the State in the preceding fiscal year.

To be eligible for this assistance, the State must comply with the provisions of this title with respect to the substantial reduction or elimination of the taxation of real property, the achievement of the required level of per pupil expenditures by all local educational agencies, the planning and carrying out of educational programs as stated above, and certain general provisions. In addition, the State must have adopted a State tax system under which combined State and local fiscal effort is maintained on behalf of elementary and secondary education, and that assures an equitable distribution within the State of the burden of financing elementary and secondary education, making such financing a function of the total taxable wealth of the State, achieved primarily by basing State taxes upon total personal income.

TITLE IV

Establishes a Department of Education headed by a Secretary at cabinet level, to promote the cause and advancement of education throughout the Nation. Provides for certain functions to be performed by the Secretary of Education and Assistant Secretaries in the fulfillment of this purpose. Transfers to the Department the Education Division of the Department of Health, Education, and Welfare, as well as specified functions in the area of education, of the Secretary of Health, Education, and Welfare of the Director of the Office of Economic Opportunity, of the Secretary of Defense, of the Secretary of Agriculture, of the Secretary of Housing and Urban Development, and of the National Science Foundation. The President is authorized to transfer other Federal agency functions to the Department as he determines necessary to carry out the purposes of this title. Specific transfers and the establishment of the Department are made effective within 90 days of the date of enactment of this title. There are authorized to be appropriated such sums as may be necessary to carry out the purposes of this title.

Provides for the creation of a Federal Interagency Committee on Education, to be composed of designated Federal agency officials, whose basic purpose shall be to assure effective coordination of all Federal programs affecting education.

Creates a National Advisory Commission on Education, composed of fifteen members appointed by the President, by and with the advice and consent of the Senate, from among those who have recognized expertise and direct involvement in the field of education, as well as representatives from the general public, industry, and the mass media. The Commission shall review the administration and operation of Federal education programs, conduct evaluations, and make recommendations for necessary improvements and new directions to be undertaken, including legislative recommendations—basically directed toward the determination and implementation of priorities among unmet needs and national goals in education .The Commission shall make annual reports to the President and to Congress. The Commission shall also recommend to the Secretary of Education necessary changes to achieve a manageable and effective advisory structure for the Department.

Provides for a comprehensive report on education to be made annually by the Secretary to the President for submission to the Congress.

S. 1817

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 of the "National Education Investment Act of 1973".

TITLE I—GRANTS FOR CONSTRUCTION AND ACQUISITION OF FACILITIES AND EQUIPMENT FOR SCHOOLS SERVING CHILDREN OF LOW-INCOME FAMILIES

SEC. 101. The Act of September 23, 1950, Public Law 815, Eighty-first Congress, as amended (20 U.S.C. 631–645), is amended by inserting:

"TITLE I—FINANCIAL ASSISTANCE FOR SCHOOL CONSTRUCTION IN AREAS AFFECTED BY FEDERAL ACTIVITY"

immediately above the heading of section 1, by striking out "this Act" wherever it appears in sections 1 through 10, inclusive (other than where it appears in section 5(c), for the second time in section 5(f), and for the first time in the fourth sentence of section 9), and inserting in lieu thereof "this title", and by adding immediately after section 10 the following new title:

"TITLE II—FINANCIAL ASSISTANCE FOR CONSTRUCTION AND ACQUISITION OF FACILITIES AND EQUIPMENT FOR SCHOOLS SERVING CHILDREN OF LOW-INCOME FAMILIES

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Elementary and Secondary School Construction Act of 1973'.

"DECLARATION OF POLICY

"SEC. 202. In recognition of the special educational needs of children of low-income families and the impact that concentrations of low-income families have on the ability of local educational agencies to support adequate programs for the construction of facilities for their public elementary and secondary schools, the Congress hereby declares it to be the policy of the United States to provide financial assistance (as set forth in this title) to local educational agencies serving areas with concentrations of children from low-income families to construct, reconstruct, renovate, and improve elementary and secondary school facilities (including preschool facilities) so as to meet more effectively the special educational needs of educationally deprived children.

"DURATION OF GRANTS

"SEC. 203. The Commissioner shall, in accordance with the provisions of this title, make payments to State educational agencies for grants to local educational agencies for the period beginning July 1, 1973, and ending June 30, 1974.

"GRANTS—AMOUNT AND ELIGIBILITY

"SEC. 204. (a)(1) From the sums appropriated for making grants under this title for a fiscal year, the Commissioner shall reserve such amount, but not in excess of 2 percentum thereof, as he may determine and shall allot such amount among Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands according to their respective need for such grants. The maximum grant which a local educational agency in Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands shall be eligible to receive shall be determined pursuant to such criteria as the Commissioner determines will best carry out the purposes of this title.

"(2) In any case in which the Commissioner determines that satisfactory data for that purpose are available, the maximum grant which a local educational agency in a State shall be eligible to receive under this title for any fiscal year shall be an amount equal to one-half of the average per pupil expenditure in that State or in the United States, whichever is the larger, multiplied by the number of children in the school district of such agency who are aged five to seventeen, inclusive, and who are (A) in families having an annual income of less than the low-income factor (established pursuant to subsection (c)), (B) in families receiving an annual income in excess of the low-income factor (as established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act, or (C) living in institutions for neglected or delinquent children (other than such institutions operated by the United States) or being supported in foster homes with public funds. In any other case, the maximum grant for any local educational agency in a State shall be determined on the basis of the aggregate maximum amount of such grants for all such agencies in the county or counties in which the school district of the particular agency is located, which aggregate maximum amount shall be equal to one-half of such average per pupil expenditure multiplied by the number of children of such ages and families in such county or counties and shall be allocated among those agencies upon such equitable basis as may be determined by the State educational agency in accordance with basic criteria prescribed by the Commissioner.

"(3) For purposes of this subsection, the term 'State' does not include Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands.

"(b) A local educational agency shall be eligible for a grant for a fiscal year under this title only if it meets the following requirements with respect to the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)):

"(1) In any case (except as provided in paragraph (3)) in which the Commissioner determines that satisfactory data for the purpose of this subsection as to the number of such children of such families are available on a school district basis, the number of such children of such families in the school district of such local educational agency shall be—

"(A) at least one hundred, or

"(B) equal to 3 per centum or more of the total number of all children aged five to seventeen, inclusive, in such district,

whichever is less, except that it shall in no case be less than ten.

"(2) In any other case, except as provided in paragraph (3), the number of children of such ages of families with such income in the county which includes such local educational agency's school district shall be one hundred or more.

"(3) In any case in which a county includes a part of the school district of the local educational agency concerned and the Commissioner has not determined that satisfactory data for the purpose of this subsection are available on a school district basis for all the local educational agencies for all the counties into which the school district of the local educational agency concerned extends, the eligibility requirement with respect to the number of children of such ages of families of such income for such local educational agency shall be determined in accordance with regulations prescribed by the Commissioner for the purposes of this subsection.

"(c) For the purposes of this section, the 'low-income factor' shall be $4,000.

"(d) For the purposes of this section, the Commissioner shall determine the number of children aged five to seventeen, inclusive, of families having an annual income of less than the low-income factor (as established pursuant to subsection (c)) on the basis of the most recent satisfactory data available from the Department of Commerce. At any time such data for a county are available in the Department of Commerce, such data shall be used in making calculations under this section. The Secretary of Health, Education, and Welfare shall determine the number of children of such ages from families receiving an annual income in excess of the low-income factor (established pursuant to subsection (c)) from payments under the program of aid to families with dependent children under a State plan approved under title IV of the Social Security Act on the basis of the best available data for the period most nearly comparable to those which are used by the Commissioner under the first two sentences of this subsection in making determinations for the purposes of subsections (a) and (b). When requested by the Commissioner, the Secretary of Commerce shall make a special estimate of the number of children of such ages who are from families having an annual income less than the low-income factor (established pursuant to subsection (c)) in each county or school district, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce the cost of making this special estimate. The Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

"APPLICATION

"SEC. 205. (a) A local educational agency may receive a grant under this title for any fiscal year only upon application therefor approved by the appropriate State educational agency, upon its determination, consistent with such basic criteria as the Commissioner may establish under section 206—

"(1) that payments under this title will be used for projects for the construction of school facilities of the local educational agency which are designed to serve school attendance areas having high concentrations of children from low-income families, including facilities for special projects conducted by the local educational agency in which children from such areas who are enrolled in private elementary or secondary schools, may participate as authorized by section 141 of the Elementary and Secondary Education Act of 1965;

"(2) that the local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property;

"(3) that such projects are not inconsistent with overall State plans for the construction of school facilities and that the requirements of section 210 will be complied with on all such projects;

"(4) that the local educational agency will make an annual report and such other necessary reports to the State educational agency, in such form and containing such information, as may be necessary to enable the State educational agency to perform its duties under this title, and will keep such records and afford such access thereto as the State educational agency may find necessary to assure the correctness and verification of such reports.

"(b) The State educational agency shall not finally disapprove in whole or in part any application for funds under this title without first affording the local educational agency submitting the application reasonable notice and opportunity for a hearing.

"BASIC CRITERIA

"SEC. 206. As soon as practicable after the enactment of this title, the Commissioner shall by regulation prescribe basic criteria to be applied by State educational agencies under section 205. In addition to other matters, such basic criteria shall include the requirement that in approving applications under section 205 priority shall be given to projects which provide for the replacement or restoration of hazardous or unsafe facilities, the consolidation of school facilities where the existing facilities do not provide separate classrooms for each grade, the modernization or replacement of facilities which are antiquated or functionally obsolescent, or the modernization or replacement of facilities to provide innovative facilities or equipment.

"ASSURANCES FROM STATES

"SEC. 207. (a) Any State desiring to participate in the program under this title shall submit through its State educational agency to the Commissioner an application, in such detail as the Commissioner deems necessary, which provides satisfactory assurance—

"(1) that, except as provided in section 208(b), payments under this title will be used only for projects which have been approved by the State educational agency pursuant to section 205(a) and which meet the requirements of that section, and that such agency will in all other respects comply with the provisions of this title, including the enforcement of any obligations imposed upon a local educational agency under section 205(a);

"(2) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper disbursement of, and accounting for, Federal funds paid to the State (including such funds paid by the State to local educational agencies) under this title; and

"(3) that the State educational agency will make to the Commissioner such reports as may be reasonably necessary to enable the Commissioner to perform his duties under this title (including such reports as he may require to determine the amounts which the local educational agencies of that State are eligible to receive for any fiscal year), and assurance that such agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports.

"(b) The Commissioner shall approve an application which meets the requirements specified in subsection (a), and he shall not finally disapprove an application except after reasonable notice and opportunity for a hearing to the State educational agency.

"PAYMENT

"SEC. 208. (a) (1) The Commissioner shall, subject to the provisions of section 209, from time to time pay to each State, in advance or otherwise, the amount which the local educational agencies of that State are eligible to receive under this title. Such payments shall take into account the extent (if any) to which any previous payment to such State educational agency under this title (whether or not in the same fiscal year) was greater or less than the amount which should have been paid to it.

"(2) From the funds paid to it pursuant to paragraph (1) each State educational agency shall distribute to each local educational agency of the State which is not ineligible by reason of section 204(b) and which has submitted an application approved pursuant to section 205(a) the amount for which such application has been approved, except that this amount shall not exceed an amount equal to the maximum amount of the grant as determined for that agency pursuant to section 204.

"(b) The Commissioner is authorized to pay to each State amounts equal to the amounts expended by it for the proper and efficient performance of its duties under this title, except that the total of such payments in any fiscal year shall not exceed—

"(1) 1 per centum of the total of the amount of the grants paid under this title for that year to the local educational agencies of the State, or

"(2) $75,000, or $25,000 in the case of Puerto Rico, Guam, American Samoa, the Virgin Islands, or the Trust Territory of the Pacific Islands;

whichever is the greater.

"(c) (1) No payments shall be made under this title for any fiscal year to a State which has taken into consideration payments under this title in determining the eligibility of any local educational agency in that State for State aid or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

"(2) No payments shall be made under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was at least equal to such combined effort for the fiscal year ending June 30, 1972.

"ADJUSTMENTS WHERE NECESSITATED BY APPROPRIATIONS

"SEC. 209. If the sums appropriated for any fiscal year, for making the payments provided in this title, are not sufficient to pay in full the total amounts which all local and State educational agencies are eligible to receive under this title for such year, such amounts shall be reduced ratably. In case additional funds become available for making payments under this title for that year, such reduced amounts shall be increased on the same basis that they were reduced.

"LABOR STANDARDS

"SEC. 210. All laborers and mechanics employed by contractors 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, as amended (40 U.S.C. 276a–276a–5). 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 (14 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 265c)."

"NONDISCRIMINATION PROVISION

"SEC. 211. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participa-

tion in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this Act."

TECHNICAL AND CONFORMING AMENDMENTS

SEC. 102. (a) The Act of September 23, 1950, Public Law 815, Eighty-first Congress, (20 U.S.C. 631-645), is amended—

(1) by inserting before section 11 the following title heading:

"TITLE III—ADMINISTRATIVE PROVISIONS"

and

(2) by redesignating sections 11, 12, 13, 14, 15, 16, and 17, as sections 301, 302, 303, 304, 305, 306, and 307, respectively.

(b) The section of such Act redesignated as section 302 is amended by adding at the end thereof the following new subsection:

"(c) No funds appropriated to carry out the provisions of this Act shall be used for the purpose of religious worship or instruction or for the construction of facilities as a place of worship or religious instruction."

(c) Subsection (c) of the section of such Act redesignated as section 303 is amended by inserting "title I of" immediately before "this Act" both times it appears.

DEFINITIONS

SEC. 103. (a) The section of the Act of September 23, 1950, Public Law 815, Eighty-first Congress, redesignated as section 305 is amended by adding at the end thereof the following:

"(17) For the purpose of this section, 'the average per pupil expenditure' in a State, or in the United States, shall be the aggregate current expenditures, during the second fiscal year preceding the fiscal year for which the computation is made (or, if satisfactory data for that year are not available at the time of computation, then during the earliest preceding fiscal year for which satisfactory data are available) of all local educational agencies in the State, or in the United States (which for the purposes of this subsection means the fifty States and the District of Columbia), as the case may be, plus any direct current expenditures by the State for operation of such agencies (without regard to the soures of funds from which either of such expenditures are made), divided by the aggregate number of children in average daily attendance to whom such agencies provided free public education during such preceding year.

"(18) The term "current expenditures' means expenditures for free public education to the extent that such expenditures are made from current revenues, except that such term does not include any such expenditure for the acquisition of land, the erection of facilities, interest, or debt service.

"(19) The term 'county' means those divisions of a State utilized by the Secretary of Commerce in compiling and reporting data regarding counties."

(b) Paragraph (4) of such section is amended by inserting before the period at the end thereof the folowing: ", except that such term does not include any education provided beyond grade 12".

TITLE II—LOAN GUARANTEES AND INTEREST SUBSIDIES FOR CONSTRUCTION AND ACQUISITION OF FACILITIES FOR ELEMENTARY AND SECONDARY SCHOOLS

SECTION 201. (a) In order to assist State and local educational agencies to carry out acquisition and construction of facilities for elementary and secondary schools, the Commissioner of Education, during the period beginning January 1, 1974, and ending with the close of June 30, 1977, may, in accordance with the provisions of this title—

(1) guarantee to non-Federal lenders making loans to such State and local educational agencies for such purposes, payment of principal of and interest on such loans which are approved under this title, and (2) pay to the holder of such loans (and for and on behalf of the State or local educational agency 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 title may, except under such special circumstances and under such conditions as are prescribed by the Commissioner, 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 in excess of 90 per centum of the cost of acquisition or construction of the facility for which such guarantee or loan subsidy payment is sought. No such loan guarantee may apply to more than 90 per centum of the loss of principal and interest on the loan.

(b) No loan guarantee or interest subsidy payment under this title shall be made unless the Commissioner finds that—

(1) the State or local educational agency applicant is unable to secure the amount of such loan from other sources upon terms and conditions equally as favorable as the terms and conditions applicable to loans which are guaranteed or with respect to which interest subsidy payments are made under this title;

(2) the construction will be undertaken in an economical manner and will not be of elaborate or extravagant design or materials;

(3) with respect to a loan for which a guarantee or an interest subsidy payment is sought, 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, and that the rate of interest does not exceed such per centum per annum on the principal obligation outstanding as the Commissioner 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; and

(4) the term of a loan for which a guarantee or interest subsidy payment is sought does not exceed forty years.

(c) Guarantees of loans and interest subsidy payments under this title shall be subject to such further terms and conditions as the Commissioner determines to be necessary to assure that the purposes of this title will be achieved, and, to the extent permitted by subsection (e), any of such terms and conditions may be modified by the Commissioner 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 title, the United States shall be entitled to recover from the State or local educational agency applicant the amount of any payments made pursuant to such guarantee unless the Commissioner, for good cause, waives his right of recovery, and, upon making 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 title shall be incontestable in the hands of a State or local educational agency 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, or except where such applicant is in substantial noncompliance with any material provision of this title. The Commissioner shall have the authority after a hearing on the record to terminate or cancel any loan guarantee on behalf of a State or local educational agency where he makes a finding of fact, supported by substantial evidence, that such fraud or misrepresentation or substantial noncompliance with any material provision of this title has occurred.

(f) The Commissioner is authorized to establish and collect such fees from State and local educational agencies for guarantees made under this title as he considers reasonable.

(g) (1) There is established in the Treasury an Elementary and Secondary School Facility Construction and Acquisition Loan Guarantee and Interest Subsidy Fund (hereinafter in this title referred to as the 'fund') which shall be available to the Commissioner without fiscal year limitation, in such amounts as may be specified from time to time in appropriation Act (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 Commissioner 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, and fees collected for guarantees made under this title.

(2) If at any time the moneys in the fund are insufficient to enable the Commissioner 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 Commissioner 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 Commissioner from such fund.

(h) (1) The cumulative total of the principal of the loans outstanding at any time with respect to which guarantees have been issued under this title 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 but 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 funds obligated under this title in such fiscal year.

(i) Not more than 12½ per centum of the funds obligated under this title for the principal of loans guaranteed and interest subsidy payments made in any one fiscal year may be used within any one State.

(j) The total amount of interest subsidy payments made under agreements entered into under this title in any one fiscal year shall not exceed $300,000,000 in such fiscal year.

APPLICATION

SEC. 202. (a) No loan guarantee or interest subsidy may be made under this title unless an application therefor has been submitted to and approved by the Commissioner. Each such application shall be in such form, submitted in such manner, contain such information, and be consistent with such basic criteria established under section 203, as the Commissioner may require. Each such application shall provide—

(1) that the State or local educational agency has provided satisfactory assurance that the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property;

(2) that such projects are not inconsistent with overall State plans for the construction and acquisition of school facilities and that the requirements of section 206 will be complied with on all such projects;

(3) that such fiscal control and fund accounting procedures will be adopted as may be necessary to assure proper accounting for payments made with respect to loans guaranteed and interest subsidy payments made under this title;

(4) that the State or local educational agency is authorized to make such application for assistance under this title under the appropriate State law;

(5) that the State or local educational agency will make an annual report and such other necessary reports to the Commissioner, in such form and containing such information, as may be necessary to enable the Commissioner to perform his duties under this title, and will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of such reports;

(6) that such information as may be required shall include satisfactory specification of the existing or anticipated (A) population group or groups to be served by the existing or proposed elementary or secondary school facility; (B) organizational and financial arrangements for providing educational services; (C) facilities available for and additional capital investments and sources of financing therefor, required to provide the level and scope of services proposed; and (D) measures to assure that the location and operation of elementary and secondary school facilities constructed or acquired through assistance provided under this title are in compliance with the requirements of section 207.

(b) The Commissioner shall not approve an application which meets the requirements of subsection (a) of this section unless such application in the case of a local educational agency has been submitted to the appropriate State educational agency for comment.

(c) The Commissioner shall not finally disapprove in whole or in part any application for assistance under this title without first according the educational agency submitting the application reasonable notice and opportunity for a hearing.

BASIC CRITERIA

SEC. 203. As soon as practicable after the enactment of this title, the Commissioner shall by regulation prescribe basic criteria for applications submitted under section 202. In addition to other matters, such basic criteria shall include a priority for projects which provide for the replacement or restoration of hazardous or unsafe facilities, the consolidation of school facilities where the existing facilities do not provide separate classrooms for each grade, the modernization or replacement of facilities which are antiquated or functionally obsolescent, or the modernization or replacement of facilities to provide innovative facilities or equipment.

LIMITATIONS

SEC. 204. (a) No assistance shall be provided under this title for any fiscal year to a State which has taken into consideration non-Federal loans guaranteed and interest subsidy payments under this title in determining the eligibility of any local educational agency in that State for State aid, or the amount of that aid, with respect to the free public education of children during that year or the preceding fiscal year.

(b) No assistance shall be provided under this title to any local educational agency for any fiscal year unless the State educational agency finds that the combined fiscal effort (as determined in accordance with regulations of the Commissioner) of that agency and the State with respect to the provision of free public education by that agency for the preceding fiscal year was at least equal to such combined effort for the fiscal year ending June 30, 1972.

JUDICIAL REVIEW

SEC. 205. (a) If any State or local educational agency is dissatisfied with the Commissioner's final action with respect to the approval of its application under the provisions of this title or with his final action under section 201(a), such State or local educational agency may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the State or local educational agency is located a petition for review of that action. A copy of the petition shall be forthwith transmitted by the clerk of the Court to the Commissioner. The Commissioner thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Commissioner, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Commissioner to take further evidence, and the Commissioner may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Commissioner or to set it aside, in whole or in part. 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.

LABOR STANDARDS

SEC. 206. All laborers and mechanics employed by contractors on all construction projects 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, as amended (40 U.S.C. 276a–276a–5). 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 (14 F.R. 3176; 5 U.S.C. 133z–15) and section 2 of the Act of June 13, 1934, as amended (40 U.S.C. 265c).

NONDISCRIMINATION PROVISION

SEC. 207. No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity in a facility assisted in whole or in part by any guaranteed loan or interest subsidy payment made under this title.

PROHIBITION ON USE AS MATCHING FUNDS

SEC. 208. No State or unit of local government may use, directly or indirectly, any part of the funds it receives under this title as a contribution for the purpose of obtaining Federal funds under any law of the United States which requires matching funds as a condition to the receipt of Federal funds.

DEFINITIONS

SEC. 209. As used in this Act—

(a) The term "Commissioner" means the Commissioner of Education.

(b) The term "construction" includes the preparation of drawings and specifications for school facilities; erecting, building, acquiring, altering, remodeling, improving, or extending school facilities; and the inspection and supervision of the construction of school facilities. Such term includes interests in land or offsite improvements.

(c) The term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(d) The term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(e) The term "school facilities" includes classrooms and related facilities; and initial equipment, machinery, and utilities necessary or appropriate for school purposes. Such term does not include athletic stadiums, or structures or facilities intended primarily for athletic exhibitions, contests, or games or other events for which admission is to be charged to the general public.

(f) The term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(g) The term "State" includes, in addition to the several States of the Union, the Commonwealth of Puerto Rico, the District of Columbia, Guam, American Samoa, the Virgin Islands and the Trust Territory of the Pacific Islands.

(h) The term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

EVALUATION REPORT

SEC. 210. Upon completion of elementary or secondary school facility acquisition and/or construction projects under assistance provided under this title, the State or local educational agency recipient of assistance shall make a full and complete report to the Commissioner, in such manner as he may by regulation prescribe, and which shall include descriptions and evaluations of the educational services resulting from such school facility improvements. The Commissioner shall provide a consolidated report to the Congress, with such recommendations, on assistance authorized under this title, as he

deems appropriate, not later than January 1, 1977.

APPROPRIATIONS AUTHORIZED

SEC. 210. There are authorized to be appropriated to the fund, not to exceed $2,500,000,000 for the fiscal year ending June 30, 1974, and not to exceed $2,500,000,000 for the fiscal year ending June 30, 1975. Funds appropriated pursuant to this section shall be deposited in the fund and shall remain available for obligation and expenditure until expended.

TITLE III—NATIONAL EDUCATIONAL TRUST FUND

DEFINITIONS

SEC. 301. As used in this title—

(1) The term "Secretary" means the Secretary of the Treasury.

(2) The term "applicant" means any State, political subdivision of a State or other public agency or authority, which imposes a tax on real property for the purpose of financing elementary and secondary education.

(3) The term "fund" means the National Educational Trust Fund established under section 302 of this title.

(4) The term "State" includes the District of Columbia and the Commonwealth of Puerto Rico.

ESTABLISHMENT OF FUND

SEC. 302. There is established in the Treasury of the United States a trust fund to be known as the "National Educational Trust Fund" (hereafter referred to as the "fund"). The fund shall consist of—

(1) amounts appropriated to it by section 303 of this title;

(2) amounts transferred to it from programs authorized under any other provision of law; and

(3) interest and proceeds credited to it under section 304(c), and receipts from any other source.

APPROPRIATIONS TO THE FUND

SEC. 303. There are authorized to be appropriated to the fund, not more than $10,000,000,000 for the fiscal year ending June 30, 1974, and not more than $10,000,000,000 for the fiscal year ending June 30, 1975.

There are further authorized to be appropriated such sums as may be necessary to carry out the purposes of this title for the fiscal year ending June 30, 1976, and for the succeeding fiscal year.

MANAGEMENT OF THE FUND

SEC. 304. (a) It shall be the duty of the Secretary to invest such portion of the fund as is not, in his judgment, required to meet current withdrawals. Such investments may be made only in interest-bearing obligations of the United States or in obligations guaranteed as to both principal and interest by the United States. For such purpose, such obligations may be acquired (1) on original issue at the issue price, or (2) by purchase of outstanding obligations at the market price. The purposes for which obligations of the United States may be issued under the Second Liberty Bond Act, as amended, are hereby extended to authorize the issuance at par of special obligations exclusively to the fund. Such special obligations shall bear interest at a rate equal to the average rate of interest, computed as to the end of the calendar month next preceding the date of such issue, borne by all marketable interest-bearing obligations of the United States then forming a part of the public debt; except that where such average rate is not a multiple of one-eighth of 1 percent, the rate of interest of such special obligations shall be the multiple of one-eighth of 1 percent next lower than such average rate. Such special obligations shall be issued only if the Secretary determines that the purchase of other interest-bearing obligations of the United States, or of obligations guaranteed as to both principal and interest by the United States on original issue or at the market price, is not in the public interest.

(b) Any obligation acquired by the fund (except special obligations issued exclusively to the fund) may be sold by the Secretary at the market price, and such special obligations may be redeemed at par plus accrued interest.

(c) The interest on, and the proceeds from the sale or redemption of, any obligations held in the fund shall be credited to and form a part of the fund.

EXPENDITURES FROM THE FUND

SEC. 305. The Secretary is authorized to make and to contract to make payments from the fund to applicants in order to enable such applicants to substantially reduce or eliminate the taxation of real property for the purpose of financing elementary and secondary education, in accordance with further provisions under this title, during the period beginning January 1, 1974, and ending with the close of June 30, 1977.

ELIGIBILITY

SEC. 306. (a) An applicant is eligible to receive payments under this title only if the Secretary determines, on the basis of an application in such form as the Secretary may prescribe and in accordance with further provisions under this title, that the applicant has adopted or will adopt a program to substantially reduce or eliminate the taxation of real property for the purpose of financing elementary and secondary education.

(d) The Secretary shall not finally disapprove any application for funds under this title without first affording the applicant reasonable notice and an opportunity for a hearing. The terms of an application approved under this title shall be considered a contract, to which the United States shall be deemed a party-in-interest, and such contract shall be specifically enforceable in the appropriate Federal District Court by the Secretary.

LIMITATIONS AND CONDITIONS

SEC. 307. (a) Subject to further provisions under this title, and except as provided under subsection (g) of this section, the amount of payment under this title to any applicant, for the first fiscal year in which such application is made, and for the succeeding fiscal year, shall not exceed—

(1) the amount of funds received by the applicant from the taxation of real property during the last full fiscal year of the applicant when such funds were raised by such taxation for the purpose of financing elementary and secondary education, or

(2) the amount of funds for that year which an applicant in a State would require in order to expend for elementary and secondary education an amount per pupil which is equal to the applicable target per pupil expenditure for that applicant,

whichever is greater.

(b) As used in this section—

(1) the term "State educational agency" means the State board of education or other agency or officer primarily responsible for the State supervision of public elementary and secondary schools, or, if there is no such officer or agency, an officer or agency designated by the Governor or by State law.

(2) the term "local educational agency" means a public board of education or other public authority legally constituted within a State for either administrative control or direction of, or to perform a service function for, public elementary or secondary schools in a city, county, township, school district, or other political subdivision of a State, or such combination of school districts or counties as are recognized in a State as an administrative agency for its public elementary or secondary schools. Such term also includes any other public institution or agency having administrative control and direction of a public elementary or secondary school.

(3) the term "elementary school" means a day or residential school which provides elementary education, as determined under State law.

(4) the term "secondary school" means a day or residential school which provides secondary education, as determined under State law, except that it does not include any education provided beyond grade 12.

(5) the term "target per pupil expenditure" means the per pupil expenditure for elementary and secondary school children, respectively, during the base period fiscal year determined by the Secretary for that State, of that local educational agency within such State with a per pupil expenditure for elementary and secondary school children, respectively, which is exceeded by not more than 10 per centum of the local educational agencies within such State.

(6) the term "urban center" means the central city area of a standard metropolitan statistical area as determined by the Secretary;

(7) the term "local educational agency serving an urban center" means any local educational agency which serves at least one-third of the pupils in any urban center and at least 25,000 pupils; and

(8) the term "applicable target per pupil expenditure" means (A) in the case of a local educational agency serving an urban center, the target per pupil expenditure, and (B) in the case of any other local educational agency, 90 per centum of the target per pupil expenditure, for a State.

(9) the term "homestead" means the dwelling, whether owned or rented, and so much of the land surrounding it, not exceeding one acre, as is reasonably necesary for the use of the dwelling or multipurpose building used as a home and a part of the land upon which it is built, and of a mobile home if used as a home. Such term does not include personal property such as furniture, furnishings, or appliances whether or not affixed to the reality;

(10) the term "income" means the sum of adjusted gross income as defined in the Internal Revenue Code of 1954, the amount of capital gains excluded from adjusted gross income, alimony, support money, nontaxable strike benefits, cash public assistance and relief, the gross amount of any pension or annuity, nontaxable interest, workmen's compensation, and the gross amount of insurance payments in lieu of income from employment. Such term does not include gifts or noncash relief, services, or other assistance supplied by a public agency;

(11) the term "rent constituting real property taxes" means an amount equal to 25 per centum of the gross rent actually paid in cash (or its equivalent) in any calendar year by an individual solely for the right of occupancy of his homestead in a calendar year; and

(12) the term "gross rent" means a rental paid solely for the right of occupancy of a homestead, exclusive of charges for any utilities, services, furniture, furnishings or personal property or appliances furnished by the landlord as part of the rental agreement whether or not expressly set out in the rental agreement.

(c) To be eligible to receive payments under this title for any fiscal year for which application is made, an applicant shall provide satisfactory assurances to the Secretary that where the taxation of real property is employed for the purpose of financing elementary and secondary education—

(1) it will eliminate the taxation of real property on the first $30,000 of assessed value of all resident owned domiciles in which the head of the household or immediate survivor is receiving Social Security, railroad retire-

ment, veteran's pension and/or disability benefits, or equivalent retirement benefits, whether public or private, as the major source of income; and

(2) it will reduce real property taxes or rent constituting real property taxes upon an individual's homestead for the current taxable year to not more than 5 per centum of that individual's income for that year.

(d) Prior to receiving payment under this title in the second fiscal year for which application is made, each State of an applicant shall present data to the Secretary and to the Commissioner of Education demonstrating that, in the preceding fiscal year, all local educational agencies in the State had per pupil expenditures which met the required level for elementary and secondary school children, respectively, as set forth in this section.

(e) In the second fiscal year for which application is made and each year thereafter, the Secretary shall withhold not more than 20 per centum of the payment for which an applicant would otherwise be eligible, unless the Secretary has received proper notification from the Commissioner of Education, under such requirements as the Commissioner may by regulation prescribe, that such applicant has planned and will carry out programs to meet identified needs for early childhood development, vocational education, comprehensive educational programs designed to meet the special education needs of mentally or physically handicapped children and children with specific learning disabilities, and compensatory education for children who are educationally deprived.

(f) In the second fiscal year for which application is made and each year thereafter, the Secretary is authorized to increase the amount of payments to an applicant by not more than 10 per centum per year, upon receiving proper notification from the Commissioner of Education, under such requirements as the Commissioner may by regulation prescribe, that such applicant would require these additional funds in order to meet additional operating costs sustained by the applicant as a result of—

(1) the implementation of such educational programs as may be required under the provisions of this title;

(2) the acquisition of new educational equipment or the improvement of existing equipment by the applicant;

(3) increased salaries for teachers paid out of funds made available by the applicant.

(g)(1) In the third fiscal year for which application is made and each year thereafter, or in any fiscal year for which an application is approved by the Secretary under the provisions of this subsection, the applicant shall be a State, and the amount of payment to such State shall be equal to 33⅓ per centum of the expenditures for elementary and secondary education, respectively, by such State in the fiscal year preceding the fiscal year for which application is made, upon the determination by the Secretary with the concurrence of the Commissioner of Education, subsequent to the presentation to the Secretary and the Commissioner of such information and data as the Secretary and the Commissioner shall jointly by regulation prescribe, including a State plan as further provided under this subsection, that such State has complied with the provisions of this title with respect to—

(A) the substantial reduction or elimination of the taxation of real property for the purpose of financing elementary and secondary education, as set forth in section 305, section 306, and section (c) of this section;

(B) the achievement of the required level of per pupil expenditures by all local educational agencies in the State, as set forth in subsections (a) (2), (b) (5)–(8), and (d) of this section;

(C) the maintenance of combined fiscal effort by all local educational agencies and the State with respect to the provision of free public education by such agencies, and the establishment of a tax system within the State to maintain such combined fiscal effort and for other purposes, as further provided under this subsection;

(D) the planning and carrying out of educational programs, as further provided under this subsection; and

(E) General Provisions as set forth in section 308.

(2) The State plan shall—

(A) stipulate measures and programs implemented to assure that the State is in compliance with the requirements of paragraph (1) of this subsection;

(B) provide that the State educational agency shall act as the sole agency for the administration of the State plan;

(C) set forth a program under which payments made to the State under this title will be used solely by State and local educational agencies for elementary and secondary educational purposes;

(D) have been adopted only after affording local educational agencies in the State an opportunity to review and comment on its provisions;

(E) present data demonstrating that the combined fiscal effort of local educational agencies and the State with respect to the provision of free public education by such agencies for the preceding fiscal year (exclusive of payments received under this title) was at least equal to such combined effort for the fiscal year preceding the fiscal year in which initial payments were received under this title; *Provided, however,* that the resultant tax system within the State provides that—

(i) there shall be an equitable distribution within the State of the burden of financing public elementary and secondary education; and

(ii) such financing shall be a function of the total taxable wealth of the State, and is not limited to the taxable wealth of the individual local educaional agencies within the State; and

(iii) such financing shall therefore be derived predominantly from State tax collections based upon the personal income of all persons resident in the State;

(F) provide for use by the State educational agency of payments made under this title for the proper and efficient performance of its duties in implementing this title, except that such agency may not, in any fiscal year, use for such purpose an amount greater than 1 per centum of the State's total entitlement for payments under this title in such fiscal year, or $150,000, whichever is the greater;

(G) provide for objective measurements of the number of children in areas served by all respective local educational agencies in the State and for an assessment of their educational needs and achievements, as well as an accounting of educational services provided such children and the number of children served, and for the provision of annual reports to the Commissioner of Education providing such information and data as the Commissioner shall by regulation prescribe in carrying out the provisions of this subparagraph, where such information and data are provided according to the following categories:

(i) children of pre-school age;

(ii) children in the age group served by elementary and intermediate schools through grade nine;

(iii) children in the age group served by secondary schools in grades ten through twelve;

(iv) children who are mentally handicapped;

(v) children who are physically handicapped;

(vi) children who have specific learning disabilities;

(vii) children who are educationally deprived; and

(viii) children who can be assisted by vocational education.

(3) In the second fiscal year for which application is made by a State and each year thereafter, and upon receiving proper notification from the Commissioner of Education on the basis of information and date provided to the Commissioner by such State applicant in accordance with requirements under the State plan as set forth in subparagraph (G) of paragraph (2) of this subsection, the Secretary is authorized to withhold or increase payments to such State applicant as provided, respectively, under subsections (e) and (f) of this section. In any case in which the Commissioner has not determined that satisfactory dat for the purpose of this subsection are available, the Commissioner is authorized to request the Secretary of Commerce to make a special estimate of the number of children specified under the respective categories of subparagraph (G) of paragraph (2) of this subsection, and the Commissioner is authorized to pay (either in advance or by way of reimbursement) the Secretary of Commerce shall give consideration to any request of the chief executive of a State for the collection of additional census information.

GENERAL PROVISIONS

SEC. 308. (a) The Secretary shall be the trustee of the fund, and shall report to the Congress not later than March 1 of each year on the status and operation of the fund during the preceding fiscal year.

(b) In order to qualify for any payment under this title, an applicant must establish (in accordance with regulations established by the Secretary, after an opportunity for review and comment by the Governor of a State, with respect to a unit of local government located in such State) to the satisfaction of the Secretary that—

(1) it will use fiscal, accounting, and audit procedures which conform to guidelines established therefor by the Secretary (after consultation with the Comptroller General of the United States),

(2) it will provide to the Secretary (and to the Comptroller General of the United States), on reasonable notice, access to, and the right to examine, such books, documents, papers, or records as the Secretary may reasonably require for purposes of reviewing compliance with this title,

(3) it will make such annual and interim reports to the Secretary as he may reasonably require

(4) it will establish policies and procedures designed to assure that no more than 15 per centum of the Federal funds made available under this title will be used for capital outlay and debt service, and

(5) the control of funds provided under this title, and title to property derived therefrom, shall be in a public agency for the uses and purposes provided in this title, and that a public agency will administer such funds and property.

(c) No person in the United States shall on the ground of race, color, national origin, or sex be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity funded in whole or in part with funds made available under this title.

JUDICIAL REVIEW

SEC. 309. (a) If any applicant is dissatisfied with the Secretary's final action with respect to the approval of its application under the provisions of this title, or with respect to the withholding of payments as provided under section 307 (e), such applicant may, within sixty days after notice of such action, file with the United States court of appeals for the circuit in which the applicant is located a petition for review of that action. A copy of the petition shall be forthwith trans-

mitted by the clerk of the court to the Secretary. The Secretary thereupon shall file in the court the record of the proceedings on which he based his action, as provided in section 2112 of title 28, United States Code.

(b) The findings of fact by the Secretary, if supported by substantial evidence, shall be conclusive; but the court, for good cause shown, may remand the case to the Secretary to take further evidence, and the Secretary may thereupon make new or modified findings of fact and may modify his previous action, and shall certify to the court the record of the further proceedings. Such new or modified findings of fact shall likewise be conclusive if supported by substantial evidence.

(c) The court shall have jurisdiction to affirm the action of the Secretary or to set it aside, in whole or in part. 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.

TRANSITIONAL PROVISIONS

SEC. 310. Notwithstanding the provisions of Section 306, during the fiscal year ending June 30, 1974, the Secretary is authorized to furnish assistance and make payments to assist applicants in gradually reducing the amount of revenues received by such applicants by the taxation of real property for the purpose of financing elementary and secondary education.

TITLE IV—DEPARTMENT OF EDUCATION

DEPARTMENT ESTABLISHED

SECTION 401. There is established an executive department which shall be known as the Department of Education (hereinafter referred to as the "Department"). There shall be at the head of the Department a Secretary of Education (hereinafter referred to as the "Secretary"), who shall be appointed by the President, by and with the advice and consent of the Senate, and who shall receive compensation at the rate prescribed for level I of the Federal Executive Salary Schedule established under section 5312 of title 5, United States Code. The Department shall be administered under the supervision and direction of the Secretary.

FUNCTION AND PURPOSE

SEC. 402. The function and purpose of the Department shall be to promote the cause and advancement of education throughout the Nation. To that end the Secretary shall, among his responsibilities, (1) advise the President with respect to the progress of education; (2) develop and recommend to the President appropriate policies and programs to foster the orderly growth and development of the Nation's educational facilities and resources; (3) exercise leadership at the direction of the President in coordinating Federal activities affecting education; (4) conduct continuing comprehensive surveys, collect data, and make available findings, on the progress of education; (5) provide information and such other assistance as may be authorized by the Congress to aid in the maintenance of efficient school systems; and (6) encourage comprehensive planning by the State and local governments with a view to coordinating Federal, State, and community educational activities at the local level.

UNDER SECRETARY AND OTHER OFFICERS

SEC. 403. There shall be in the Department an Under Secretary, four Assistant Secretaries, and a General Counsel each of whom shall be appointed by the President, by and with the advice and consent of the Senate, and shall perform such functions and duties as the Secretary may prescribe. The Under Secretary shall receive compensation at the rate prescribed for level III of the Federal Executive Salary Schedule established under section 5314 of title 5, United States Code, and the Assistant Secretaries and General Counsel shall receive compensation at the rate prescribed for level IV under section 5315 of such title. The Under Secretary (or during the absence or disability of the office of Under Secretary, an Assistant Secretary determined according to such order as the Secretary shall prescribe) shall act as Secretary during the absence or disability of the Secretary or in the event of a vacancy in the office of Secretary.

PROVISIONS OF LAW APPLICABLE TO THE DEPARTMENT

SEC. 404. Except to the extent inconsistent with this title, all provisions of law applicable to the executive departments generally shall apply to the Department.

SEAL

SEC. 405. The Secretary shall cause a seal of office to be made for the Department, of such design as the President shall approve, and judicial notice shall be taken thereof.

DELEGATION OF AUTHORITY

SEC. 406. The Secretary may, without being relieved of his responsibility therefor, and unless prohibited by some specific provision of law, perform any function vested in him through or with the aid of such officials or organizational entities of the Department as he may designate.

TRANSFERS TO DEPARTMENT

SEC. 407. (a) The Education Division of the Department of Health, Education, and Welfare, consisting of the Office of Education and the National Institute of Education, together with all of its functions, personnel, property, records, obligations, commitments, and unexpended balances of appropriations, allocations, and other funds is transferred to the Department and all functions of the Secretary of Health, Education, and Welfare being administered through such Division, and all functions of the Secretary of Health, Education and Welfare, and all functions of the Assistant Secretary of Health, Education, and Welfare for Education, and all functions of the Commissioner of Education with respect to such Division, Office, and Institute, are transferred to the Secretary.

(b) The following additional functions of the Secretary of Health, Education, and Welfare are transferred to the Secretary:

(1) With respect to and being administered by the Secretary of Health, Education, and Welfare through the Office of Child Development;

(2) With respect to all laws dealing with the relationship between Gallaudet College, Howard University, and American Printing House for the Blind, and the Department of Health, Education, and Welfare;

(3) Under section 394 of the Communications Act of 1934, relating to Federal grants for the construction of television broadcasting facilities to be used for educational purposes; and

(4) Under the Drug Abuse Education Act of 1970.

(c) There are transferred to the Secretary all functions of the Director of the Office of Economic Opportunity (including functions delegated to the Secretary of Health, Education, and Welfare) under sections 22(a) (1) and (2) of the Economic Opportunity Act of 1964 relating to the Project Headstart and Follow Through programs.

(d) There are transferred to the Secretary all functions of the Secretary of Defense with respect to the operation of schools for dependents of members of the Armed Forces.

(e) There are transferred to the Secretary all functions of the Secretary of Agriculture with respect to the operation of the Graduate School, United States Department of Agriculture.

(f) There are transferred to the Secretary all functions of the Secretary of Housing and Urban Development under title IV of the Housing Act of 1950 relating to college housing.

(g) There are transferred to the Secretary all functions of the National Science Foundation which the Director of the Office of Management and Budget determines relate to instructional personnel development programs, instructional program development, and programs in computer innovations designed for use in education.

(h) All personnel, property, leases, obligations, and commitments and unexpended balances of appropriations, allocations, and other funds which the Director of the Office of Management and Budget determines are to be used with respect to any office, agency, bureau, foundation, or function transferred under the provisions of this section, are transferred to the Department of Education.

ADDITIONAL TRANSFERS

SEC. 408. The President is authorized to transfer to the Department of Education, any other agency or instrumentality of the Federal Government which he determines has functions relating to education and should be transferred to the Department of Education to promote efficiency in Government and to carry out the purposes of this title. Such transfers shall be completed within one hundred and eighty days after the date of enactment of this Act, and a report describing such transfers shall be submitted to the Congress not later than thirty days thereafter.

FEDERAL INTERAGENCY COMMITTEE ON EDUCATION

SEC. 409. (a) There is hereby established a Federal Interagency Committee on Education (hereafter referred to as the "Committee").

(b) The Committee shall study and recommend such actions as may be necssary to assure effective coordination of Federal programs affecting education, including—

(1) development of Federal programs in accordance with the educational goals and policies of the Nation;

(2) consistent administration of policies and practices among Federal agencies in the conduct of similar programs;

(3) full and effective communication among Federal agencies to avoid unnecessary duplication of activities;

(4) adequate procedures for the availability of information on educational matters requested by the Secretary; and

(5) full and effective cooperation with the Secretary on such studies and analyses as are necessary to carry out the purposes of this Act.

(c) The Committee shall, within ninety days of the enactment of this Act, advise the President with respect to his responsibilities under section 408.

(d) The Committee shall be composed of the Secretary, who shall be the Chairman, and one appropriate representative of each of the following: The Department of State, the Department of Defense, the Department of Agriculture, the Department of Labor, the Department of Health and Welfare, the Department of Housing and Urban Development, the National Science Foundation, the Atomic Energy Commission, the National Aeronautics and Space Administration, the National Endowments for the Arts and Humanities, and the Office of Economic Opportunity. Other members may be added by Executive order of the President as he determines may be necessary.

(e) The Chairman may invite Federal agencies in addition to agencies represented on the Committee under the provisions of subsection (d) of this section to designate representatives to participate in meetings of the Committee on matters of substantial interest to such agencies which are to be considered by the Committee.

(f) The Director of the Office of Management and Budget, the Chairman of the Council of Economic Advisers, the Executive Director of the Domestic Council, and the Director of the Office of Science and Technology may each designate a member of

his staff to attend meetings of the Committee as observers.

(g) Each Federal agency which is represented on the Committee under the provisions of subsection (d) of this section, shall furnish necessary assistance to the Committee in accordance with section 214 of the Act of May 3, 1945 (31 U.S.C. 691).

NATIONAL ADVISORY COMMISSION ON EDUCATION

SEC. 410. (a) There is hereby established a National Advisory Commission on Education (hereafter referred to as the "National Commission") composed of fifteen members appointed by the President, by and with the advice and consent of the Senate from among individuals—

(1) who are familiar with the educational needs and goals of the United States,

(2) who have competence in assessing the progress of educational agencies, institutions, and organizations in meeting those needs and achieving those goals,

(3) who are familiar with the administration of State and local educational agencies and of institutions of higher education, and

(4) who are representative of the mass media, industry and the general public.

Members shall be appointed for terms of three years, except that (1) in the case of initial members, one-third of the members shall be appointed for terms of one-year each and one-third of the members shall be appointed for terms of two-years each, and (2) appointments to fill the unexpired portion of any terms shall be for such portion only.

(b) The National Commission shall—

(1) review the administration of, general regulations for, and operation of Federal education programs;

(2) advise the Secretary and other Federal officials with respect to the educational needs and goals of the Nation and assess the progress of appropriate agencies, institutions, organizations of the Nation in order to meet those needs and achieve those goals;

(3) conduct objective evaluations of specific education programs and projects in order to ascertain the effectiveness of such programs and projects in achieving the purpose for which they are intended;

(4) make recommendations (including recommendations for changes in legislation) for the improvement of the administration and operation of Federal education programs;

(5) consult with Federal, State, and local and other educating agencies, institutions, and organizations with respect to assessing education in the United States and the improvement of the quality of education, including—

(A) areas of unmet needs in education and national goals and the means by which those areas of need may be met and those national goals may be achieved;

(B) determination of priorities among unmet needs and national goals; and

(C) specific means of improving the quality and effectiveness of teaching, curricula, and educational media and of raising standards of scholarship and levels of achievement;

(6) conduct national conferences on the assessment, improvement, and renewal of education, in which national and regional education associations and organizations, State and local education officers and administrators, and other education related organizations, institutions, and persons (including parents of children participating in Federal education programs) may exchange and disseminate information on the improvement of education;

(7) conduct, and report on, comparative studies and evaluations of education systems in foreign countries; and

(8) advise and assist in the coordination of all the advisory bodies to Federal education programs.

(c) The National Commission shall make an annual report and such other reports as it deems appropriate, concerning its findings, recommendations, and activities to the President for submission to the Congress once each year.

(d) In carrying out its responsibilities under this section, the National Commission shall take, together with the Secretary, whatever action is necessary to carry out section 448 of the General Education Provisions Act, to devise a manageable and effective advisory structure for the Department. The National Commission shall advise the Secretary on the number of advisory bodies that are necessary and the manner in which such bodies relate to one another. The National Commission shall consult with the National Advisory Council on the Education of Disadvantaged Children, the National Advisory Council on Supplementary Centers and Services, the National Advisory Council on Education Professions Development, the National Advisory Council on Educational Research and Development, and such other advisory councils and committees as may be appropriate to carry out its functions under this subsection. All Federal agencies are directed to cooperate with the National Commission in carrying out its functions under this subsection.

(e) The National Commission is authorized to engage such technical assistance as may be required to carry out its functions and the Secretary shall, in addition, make available to the National Commission such secretarial, clerical, and other assistance and such pertinent data prepared by the Department as the National Commission may require to carry out its functions.

(f) Members of the National Commission who are not in the regular full-time employ of the United States shall, while attending meetings or conferences of the National Commission or while otherwise engaged in the business of the National Commission, be entitled to receive compensation at a rate fixed by the Secretary, but not exceeding the rate specified at the time of such service for grade GS–18 under section 5332 of title 5, United States Code, including traveltime, and while so serving on the business of the National Commission away from their homes or regular places of business they may be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5, United States Code, for persons employed intermittently in the Government service.

(g) The President shall appoint the National Commission not later than thirty days after the date of enactment of this Act.

TRANSFER MATTERS

SEC. 411. All laws relating to any agency or function transferred under this Act shall, insofar as such laws are not inapplicable, remain in full force and effect. Any transfer of personnel pursuant to this title shall be without change in classification or compensation, except that this requirement shall not operate to prevent the adjustment of classification or compensation to conform to the duties to which such transferred personnel may be assigned. All orders, rules, regulations, permits, or other privileges made, issued, or granted by any agency or in connection with any functions transferred by this title, and in effect at the time of the transfer, shall continue in effect to the same extent as if such transfer had not occurred, until modified, superseded, or repealed. No suit, action, or other proceeding lawfully commenced by or against any agency or any officer of the United States acting in his official capacity shall abate by reason of any transfer made pursuant to this title, but the court, on motion or supplemental petition filed at any time within twelve months after such transfer takes effect, showing a necessity for a survival of such suit, action, or other proceeding to obtain a settlement of the question involved, may allow the same to be maintained by or against the appropriate agency or officer of the United States.

ANNUAL REPORT

SEC. 412. The Secretary shall, as soon as practicable after the end of each calendar year, make a report to the President for the submission to the Congress on the activities of the Department during the preceding calendar year. Such report shall also contain objective data on enrollments, expenditures, numbers of teachers, administrative, supervisory and auxiliary personnel, numbers of professionals who lack full qualifications, needs for classroom and other construction, special needs of critical areas such as urban and rural areas, and similar data.

CONFORMING AMENDMENTS

SEC. 413. (a) Section 19(d)(1) of title 3, United States Code, is amended by striking out "Secretary of Health, Education, and Welfare" at the end thereof and inserting the following: "Secretary of Health and Welfare, Secretary of Education."

(b) Section 1 of title 5, United States Code, is amended by adding at the end thereof: "Eleventh. The Department of Education." and by striking out "Health, Education, and Welfare" and inserting "Health and Welfare."

(c) Any reference to the Office of Education or the Commissioner of Education, in any other law, rule, regulation, certificate, directive, instruction, license, or other official paper in force on the effective date of this title shall be deemed to refer and apply to the Department of Education or the Secretary of Education, as may be appropriate.

(d) Any reference to the Department of Health, Education, and Welfare or the Secretary of Health, Education, and Welfare in any other law, rule, regulation, certificate, directive, instruction, license, or other official paper in force on the effective date of this title shall be deemed to refer and apply to the Department of Health and Welfare and the Secretary of Health and Welfare, respectively.

EXPENDITURES AUTHORIZED

SEC. 414. The Secretary is authorized to make such expenditures (including expenditures for personal services and rent at the seat of government and elsewhere for lawbooks, books of reference and periodicals, and for printing and binding) as may be necessary to carry out the provisions of this Act, and as may be provided for by the Congress from time to time.

APPROPRIATIONS AUTHORIZED

SEC. 415. There are authorized to be appropriated such sums as may be necessary to enable the Department to carry out the provisions of this title and to perform any other duties which may be imposed upon it by law.

EFFECTIVE DATE

SEC. 416. The provisions of this title shall be effective on its date of enactment, except that section 407 shall be effective within ninety days following such date.

By Mr. GURNEY:

S. 1818. A bill authorizing certain members of the Armed Forces of the United States who were captured and held by an enemy force during the Vietnam conflict to enter, without charge, certain designated units of the National Park System and National Recreation Areas. Referred to the Committee on Interior and Insular Affairs.

Mr. GURNEY. Mr. President, during the past months we have witnessed the homecoming of hundreds of released prisoners of war. With their release have come the accounts of their experiences when captured and while held prisoner. Certainly, there can be no question in my mind that these men were forced to endure under the most difficult of condi-

tions. For years they were separated from their families and loved ones. For years they were subjected to ideological brainwashing, often accompanied by monstrous physical abuse. The stories of barbaric treatment, torture, and intense political isolation and persecution cannot help but cause all Americans, regardless of their feelings about the war, to salute these wonderful heroic Americans.

Certainly there can be no method of repayment for the years they spent in captivity. Nor can there be any real method of repayment for what they endured. In fact, there is no way that we could ever do enough to convey to these returning prisoners of war our thanks for their sacrifice and for the way they proved themselves to be great Americans, military men, and individuals of such character and inner strength. These men kept their belief in their God, their Nation, and each other. We cannot help but be both thankful and proud of their conduct when we pause to remember the fact that they had no way of knowing how long they were to be imprisoned or when they were to be freed.

They endured all of this while not only coping with the vilest day-to-day conditions but while also being forced to view and contend with the dissension within their own country. Yet through all of this they remained the strongest of the strong.

As I mentioned earlier in my remarks, there is certainly no method of repayment for their individual sacrifice and it is worth noting that they seek no special benefits. However, when we pause to seriously consider the love they have demonstrated for our great Nation, perhaps one small consideration we can make on their behalf would be to award to each and every returned and returning prisoner of war a Meritorious Service Passport that would provide them free access and use to this Nation's National Park System and all of our national recreation areas. Very few, if any, Americans will ever have a greater appreciation of this Nation and its resources than these men. Very few, if any, Americans will ever have a deeper appreciation for the space and beauty of our recreation areas.

In the past we have authorized a Golden Age Passport for our older Americans who have done so much to build this great Nation. I am today offering similar legislation which will create by law a Meritorious Service Passport to be used and enjoyed by these great Americans.

I would like to notify my colleagues of my intention to offer this bill as an amendment to S. 1381, a bill which also amends the Land and Water Conservation Fund Act of 1965.

I ask unanimous consent that my bill be printed in the RECORD.

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

S. 1818

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That paragraph (4) of section 4(a) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-6a), is amended (1) by designating the existing text of such paragraph as subparagraph (A); (2) by amending the first two sentences thereof to read as follows: "The Secretary of the Interior and the Secretary of Agriculture shall establish procedures providing for the issuance of (i) an annual entrance permit (to be known as the 'Golden Age Passport') to any person sixty-two years of age or older applying for such permit, and (ii) an annual entrance permit (to be known as the 'Meritorious Service Passport') to any member of the Armed Forces of the United States (upon application therefor) who was captured and held for any period of time by an enemy force during the Vietnam conflict. Such permits shall be nontransferable, shall be issued without charge, and shall entitle the bearer and any person accompanying the bearer in a single, private noncommercial vehicle to enter into any admission fee area designated pursuant to this section."; and (3) by adding at the end thereof the following new subparagraph:

"(B) As used in this paragraph, the term 'Vietnam conflict' means the period beginning on February 28, 1961, and ending on such date as shall thereafter be determined by Presidential Proclamation or Concurrent Resolution of the Congress.".

SEC. 2. Paragraph (1) of section 4(b) of the Land and Water Conservation Fund Act of 1965, as amended (16 U.S.C. 4601-6a), is amended by inserting immediately after "Golden Age Passport" the following: "or a valid Meritorious Service Passport".

By Mr. HART:

S. 1820. A bill to amend the Export Administration Act of 1969 to manage the export of forest products from the United States. Referred to the Committee on Banking, Housing and Urban Affairs.

FOREST PRODUCTS EXPORT MANAGEMENT

Mr. HART. Mr. President, I introduce a bill to provide a comprehensive authority to manage the export of forest products so that there will be an adequate supply at reasonable prices for domestic use.

The bill is premised on the concepts that the private and public forests of the United States should be well-managed and that their forest products ought to be for the benefit of all of the people of the United States.

The taxpayers of the United States invest a considerable sum of money each year in governmentally owned forests. They subsidize, for example, extensive systems of protection of the forests from fire and forest research programs. Further, tax laws are written to provide certain benefits to forest owners. The people of the United States then should have first call on the forests to provide lumber for homes, paper and the many other products dependent on a forest industry.

This bill will not suddenly cut off all forest products exports. Rather it will reduce them slowly. It seeks to do this in a manner that encourages forest owners and managers to export only those species and grades of logs and forest products that are surplus to our domestic needs.

The exportation of logs and forest products is a private business, conducted for private profits, by private persons based upon private decisions. In 1968 log exports from Federal forests were partially regulated. Since that time there has been an astronomical increase in log exports, all from private actions. The price of forest products in this country has risen precipitously. The owners of logs are exporting more and more logs voluntarily because it is more profitable for them to do so than it is to manufacture them into forest products and sell them here at home.

My proposal would regulate this trade. It would vest certain authority in the Secretary of Commerce to accomplish this goal. It would vest in the President, with the consent of the Congress, the right to set aside this authority if there were a demonstrated overriding national interest. However, the only regulation proposed is for forest products that are needed in the United States. Those logs and other forest products that are surplus to our needs could continue to be exported without restriction. We are a net importer of forest products today and we are likely to be a net importer for many years to come. The bill seeks to maximize domestic use of trees and their products in the United States.

I ask unanimous consent that the text of the bill be printed at this point in the RECORD.

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

S. 1820

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Export Administration Act of 1969 is amended by—

(1) inserting immediately before the caption of section 1 the following:

"TITLE I—GENERAL PROVISIONS"

(2) redesignating sections 1 through 14, and all cross references thereto, as sections 101 through 114, respectively;

(3) striking "this Act" wherever it appears in sections 101 through 114 (as redesignated by paragraph (2)) and inserting "this title"; and

(4) striking "This Act" in section 113(a) (as redesignated by paragraph (2)) and inserting "This title".

SEC. 2. The Export Administration Act of 1969 is amended by adding at the end thereof the following new title:

"TITLE II—FOREST PRODUCTS EXPORT MANAGEMENT

"SHORT TITLE

"SEC. 201. This title may be cited as the 'Forest Products Export Management Act of 1973'.

"FINDINGS

"SEC. 202. It is the finding of the Congress that it is in the interest of the people of the United States that there be an adequate supply of forest products continuously available for their use; the United States is abundantly blessed with land capable of growing forests that can produce the range of values that the living forest provides for man's economic, social and spiritual well being; during the past century and into some of this century the forest lands of the United States were viewed as a limitless resource; these forests were subjected to heavy cutting and a low level of management and protection; during the past several decades progress has been made in introducing a higher level of management on public and private forests; there are still substantial forest areas that have not been restored to their optimum level of economic and environmental utility; it is both feasible and wise to sustain the flow of benefits from the forests; some benefits, both tangible and intangible, can be

sustained on an even sort of flow; on larger private and public forests it is practical to maintain a continuous annual flow of forest products, while on smaller forest units the flow of products may be intermittent yet under a high order of forest stewardship, all to the end that the total amount of forest products and other benefits regionally and nationally will be sustained and amplified in future decades; to help attain those goals the wastage of portions of the bole of each tree cut should be kept at as low a level as possible and all reasonable efforts to secure the full utilization of the tree bole should be encouraged; all reasonable forest land management efforts should be encouraged to secure the economic and environmental benefits of our forest resources; the United States has become a substantial importer of softwood logs and products, principally from Canada, and we also import certain hardwoods indigenous to the United States; the importation of logs and forest products from other nations should be encouraged provided this trade does not exploit other nations' forest resources to their disadvantage; the United States especially in the past decade has become a substantial exporter of softwood logs and also exports a substantial quantity of lumber; there is concern that unless this trade is properly managed it will contribute to supply instability, rises in the cost of forest products and depletion of the forest resources of the United States in a manner disadvantageous to the national need and interest.

"FOREST PRODUCTS EXPORT MANAGEMENT

"SEC. 203. (a) Upon enactment of this title, the export of forest products from the United States shall be managed by limiting the volume thereof that annually may be exported and the conditions under which forest products may be exported. This shall be a function of the Secretary of Commerce with cooperation from other agencies of government.

"(b) For the calendar year 1973, softwood log exports shall not exceed the average of such exports during calendar years 1971 and 1972. For softwood lumber, timber, and cants, the exports for calendar year 1973 shall not exceed the average of such exports during calendar years 1971 and 1972.

"(c) Not later than December 1 of each year beginning with 1973, the Secretary shall determine the type and volume of forest products that have been imported for the year in progress. He shall estimate the anticipated level of such imports in the succeeding year and he shall review and analyze all facts he deems pertinent to determining whether the export of forest products is in the national interest and the level of such exports that would be in the national interest.

"(d) Not later than December 15 of each year beginning with 1973, the Secretary shall prescribe for the succeeding year the level of forest products exports that he determines will be permitted in the national interest but, except as provided below, the permitted level of exports of forest products needed for domestic use in any year shall not exceed 10 per centum of the imports of forest products. For the calendar year 1974 such exports may be 20 per centum of the 1973 imports and for 1975 such exports may be 15 per centum of the 1974 imports. In any year, however, the Secretary may permit such higher level of forest products exports not to exceed the 1972 level as he determines will be in the national interest in any year or portion thereof when the domestic price index for forest products is 95 or less using the year 1967 as 100.

"(e) In addition to the export of quantities of forest products as provided in subsection (d), the Secretary shall determine the grades and species of logs and bolts and processed lumber, plywood, and cants not needed for and surplus to domestic purposes and may permit their exportation without regard to the above limits. In reaching his determination, the Secretary shall consider whether the export of such logs will improve the utilization of the bole of cut trees and promote higher levels of forest management. As a condition of issuing such a permit the Secretary shall have made a finding that there is currently no reasonable domestic market for such forest products and shall take into account, among other things—

"(1) whether the applicant has attempted in good faith but unsuccessfully to sell such forest products at no more than fair value to persons that are customarily engaged in the purchase of such products for manufacture or sale; and

"(2) the customary uses for such forest products on the domestic market and the current prevailing conditions as to such

"(f) The Secretary shall by regulation designate at least one day in each month on which he will receive written or oral testimony from permit applicants and other interested persons, relevant to the findings required under paragraph (e) of this subsection. To provide the public notice of pending applications, testimony will be received on only those applications delivered to the Secretary at least ten days prior to the designated date. After receipt and consideration of the testimony, the Secretary shall within five days, Saturdays, Sundays, and legal holidays excluded, approve or disapprove such applications. Concurrent with his action the Secretary shall issue a concise public statement stating his reasons therefor.

"(g) Any person who prior to March 31, 1973 has entered into a firm written contract to deliver forest products for export, shall be permitted by the Secretary to complete such contract and the Secretary shall take these facts into account in determining the permits he will issue under this title. In issuing permits for the export of forest products under subsection (d), the Secretary shall consider all persons and shall not limit such permits to those who have engaged in exports in prior years but he shall issue such permits only to persons who own forest land or persons who own forest products, manufacturing plants, or logging operations and customarily are engaged in the cutting of standing timber or the manufacture of same for domestic manufacture.

"AVAILABILITY OF RECORDS AND STORAGE AREAS

"SEC. 204. Whoever exported forest products in the two years prior to enactment of this title or subsequently applies under this title to export forest products shall permit access to related books, records, and accounts, and their forest storage areas by the Secretary.

"PENALTY

"SEC. 205. Whoever knowingly and willfully exports any timber in violation of this title, or knowingly and fradulently files a false report, or fails to permit the Secretary access to his books, records, and accounts, and his forest product storage areas shall be fined not more than $10,000 or imprisoned for not more than one year, or both, for each such violation, and shall not thereafter be permitted to export forest products for a period of not more than five years.

"DEFINITIONS

"SEC. 206. As used in this title—

"(a) the term 'forest products' means coniferous species: *Provided*, That for the purposes of this title, coniferous forest products consist of—

"(1) any logs, such as saw logs, peeler logs, and pulp logs;

"(2) cants, squares, and hewn sawn material exceeding four and one-half inches in thickness;

"(3) split or round bolts, or other round wood not processed to standards and specifications suitable for end product use;

"(4) veneers and plywood; and

"(5) lumber seven feet in length or more with a width in excess of two inches or a thickness in excess of one-half inch.

"(b) The term 'Secretary' means the Secretary of Commerce.

"(c) The term 'exporter' means any individual, corporation, association, firm, or other legal entity which sold forest products under such terms that the seller delivered the forest products either—

"(1) on board a truck or railroad car; or

"(2) alongside a vessel in a manner usual in the port involved or on a dock designated and provided by the buyer; in such circumstances that the seller at that time reasonably believed that the forest products so delivered would, in accordance with orders given by the buyer directly to the carrier, be transported by such truck, railroad car, or vessel to a foreign destination.

"(d) The term 'United States' means the fifty States, and territories, possessions, and trust territories of the United States.

"AUTHORITY TO SUSPEND

"SEC. 207. After the calendar year 1974, the President may suspend the operation of this title, in whole or in part for any calendar year if by July 1 of the preceding year he has made a finding that the overall national interest of the United States will be better served by such action than by the operation of this title and by that date he has submitted his reasons therefor to the Congress of the United States and both Houses of the Congress have passed resolutions stating in effect approval of such request no later than one hundred and twenty calendar days thereafter.

"REGULATIONS AND FEES

"SEC. 208. (a) The Secretary is authorized to issue such regulations as may be necessary to carry out the purposes of this title.

"(b) The Secretary is also authorized to charge reasonable fees to those engaged in the exportation of forest products, or seeking to export forest products to defray the cost of processing and approving their specific application and the inspection of the forest products they are permitted to export. In any case where it shall appear to the satisfaction of the Secretary that any person has made a payment under this authority which is not required, or is in excess of the amount required, the Secretary, upon application or otherwise, may cause a refund to be made from applicable funds. Moneys received hereunder shall be credited to a separate account in the Treasury and are hereby appropriated and made available until expended, as the Secretary may direct for payment of expenses incident to the function for which the charges were made and for refunds to depositors as provided above. There are hereby authorized to be appropriated such additional sums as may be necessary to carry out the purposes of this title."

By Mr. STEVENS (for himself and Mr. GRAVEL):

S. 1821. A bill to amend the Federal Aviation Act of 1958, as amended, by requiring certification and subsidy of at least two air carriers to points receiving neither highway nor railroad service. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, two decisions by the Civil Aeronautics Board prompted the bill I introduce today for myself and my colleague (Mr. GRAVEL).

In 1969, the Civil Aeronautics Board initiated the Alaska Service Investigation. The investigation was subsequently divided into three phases: trunk line, regional routes, and bush routes. The CAB issued a decision and order in December 1971 for the trunk line and re-

gional route phases. In this decision, the CAB created a monopoly situation by suspending two of the three carriers serving southeastern Alaska. One carrier had previously been suspended in 1965. A second carrier received a subsidy, and the third did not. Upon suspending two of the carriers, the CAB gave a monopoly route award to the remaining carrier on a subsidy ineligible basis.

In September 1972, the CAB decided the bush routes phase of the Alaska Service Investigation. In this decision, the CAB created another monopoly situation by suspending one of two subsidized carriers serving northwestern Alaska. The remaining carrier received a monopoly route award on a subsidy ineligible basis.

Southeast Alaska is islandic. It has neither road nor rail service to Anchorage or Seattle, which are its only gateways other than by air. Air transportation is the only mode of travel other than infrequent and slow ferry service. Northwest Alaska—Nome, Kotzebue, and Unalakleet—is also far and remote. It typifies the Alaskan dilemma of sparsely populated communities scattered great distances from population and supply centers. In the winter months, the Bering Sea freezes and the only mode of transportation is by air. While Alaska is not alone in such physical characteristics, these portions of the State typify the dependence on air of many isolated rural communities in this country.

These two CAB decisions were not in the public's interest. In its attempt to strengthen the financial prospects of Alaskan air operations, the CAB gave insubstantial weight to the Commerce, Postal, and national defense needs, and the public interest which dictated alternative dependable air carrier service.

Competition is important. The absence of competing rail and highway service makes competing air service all the more important.

For this reason, I am today introducing legislation that I introduced originally in the 92d Congress to insure continued air service to points in Alaska and elsewhere that receive neither highway nor rail service. This legislation would make it clear that air service to points in the United States, including Alaska and Hawaii, receiving neither highway service nor railroad service shall be maintained on air routes. It will also insure that subsidy payments necessary to provide such air service will be allowed.

The bill will accomplish the following:

First, the legislation adds a new provision to section 102 of the Federal Aviation Act of 1958. Section 102 details the considerations of the CAB in determining whether certification and should be granted, altered, amended, modified, or suspended under section 401 of the act. This will broaden the public interest standards of the act. It will require the CAB to determine whether or not competing modes of transportation are available to communities for which the CAB authorizes airline service. If communities are isolated from railroad or highway transportation systems, the CAB will have to accommodate this dependency on air service by providing a sufficient amount of competition with the air mode.

Second, section 2 will require that no term or condition of any certificate can limit the maximum subsidy amounts payable for service to or from points receiving neither railroad service nor highway service. Existing certificates must be so amended.

Third, section 3 will require that in detering the need for such a subsidy, the Civil Aeronautics Board and the Secretary of Transportation must consider air service to be a requirement for points receiving neither highway service nor rail service.

Fourth, section 4 will require that in determining the public convenience and necessity under the sections I have previously mentioned, the Board shall consider that the certification of at least two air carriers in areas receiving neither highway service nor railroad service is necessary for the public convenience and necessity.

This legislation is intended to prescribe guidelines in determining the amount of subsidy and the criteria for certification. It is not intended to increase the amount of subsidy paid.

This problem is of extreme concern to the citizens of Alaska. Only last year, the Alaska State Legislature passed House Joint Resolution 82 on this subject.

I request unanimous consent that the bill itself be printed in its entirety in the CONGRESSIONAL RECORD at this point followed by House Joint Resolution 82 of the Alaska State Legislature.

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

S. 1821

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Federal Aviation Act of 1958, as amended, is hereby further amended as follows;

SECTION 1. By redesignating clauses (d), (e), and (f) of section 102 (49 U.S.C. 1302) as clauses (e), (f), and (g), respectively, and by inserting after clause (c) the following:

"(d) The extension of such service to points in the continental United States which shall include Alaska and Hawaii receiving neither highway service nor railroad service."

SEC. 2. By adding a paragraph (7) to subsection (e) of section 401 (49 U.S.C. 1371) that shall provide as follows:

"(7) No term or condition in any certificate shall limit the maximum subsidy amounts payable with respect to service to or from points that receive neither railroad service nor highway service. The Board shall, without hearings, alter, modify, or amend any existing certificate term or condition in contravention of this requirement so as to bring such term or condition into conformity therewith."

SEC. 3. By adding the following sentence to subsection (b) of section 406 (49 U.S.C. 1376): "In the exercise of their powers and duties under this subsection, the Board and the Secretary of Transportation shall consider as required for the commerce of the United States, the Postal Service, and the national defense, air service to points in the continental United States which shall include Alaska and Hawaii receiving neither highway service nor railroad service."

SEC. 4. Add a new Section 406a as follows:

"In determining the public convenience and necessity under Sections 102, 401, and 406, the Board shall consider as necessary to the sound development of an air-transport system properly adapted to the needs of the foreign and domestic commerce of the United States, the postal service and the national defense, the certification of at least two air carriers to provide air service to points in the United States receiving neither highway service nor railroad service."

HOUSE JOINT RESOLUTION NO. 82

Relating to the decision of the Civil Aeronautics Board giving Alaska Airlines exclusive authority to service Southeastern Alaska

Be it resolved by the Legislature of the State of Alaska:

Whereas the Civil Aeronautics Board has given Alaska Airlines exclusive authority to service Southeastern Alaska commencing February 7, 1972; and

Whereas the people of Southeastern Alaska desire and need competitive air service; and

Whereas the traffic record in Southeastern Alaska has for several years steadily improved, indicating beyond a doubt that competitive service is called for in that area of the state; and

Whereas the documents before the CAB reveals no evidence, as viewed by the State of Alaska, to indicate the financial ability of Alaska Airlines alone to provide the quality and dependability of service necessary to the Southeastern region of the state; and

Whereas the CAB's own traffic projection figures demonstrate an estimated 10 per cent annual increase in air traffic in Southeastern Alaska during each of the next seven years, the term of Alaska's exclusive authority;

Be it resolved by the Alaska Legislature that it expresses grave doubts concerning the wisdom of the decision of the CAB to limit Southeastern Alaska to the services of only one airline; and be it

Further resolved that the Civil Aeronautics Board is urgently requested to re-examine its decision and to assure the continuation of competitive air service for Southeastern Alaska.

Copies of this Resolution shall be sent to the Honorable Richard M. Nixon, President of the United States; the Honorable Secor D. Browne, Chairman, Civil Aeronautics Board; and to the Honorable Ted Stevens and the Honorable Mike Gravel, U.S. Senators, and the Honorable Mike Begich, U.S. Representative, members of the Alaska delegation in Congress.

By Mr. STEVENS:

S. 1822. A bill to exempt from the provisions of the Airport and Airways Revenue Act of 1970 helicopters which are not operated on an established line. Referred to the Committee on Finance.

Mr. STEVENS. Mr. President, I am introducing a bill today to exempt helicopters not operated on established lines—nonscheduled operators—from the Airport and Airways Revenue Act of 1970. The purpose of the legislation is to deal with a problem that has caused many small helicopter operators a great deal of difficulty and has imposed a great financial burden upon them and their customers.

This tax has adversely affected these companies, which are generally small and are not subsidized. They must charge their customers the tax on the full charter rate for the helicopter, whether there be but one passenger or an entire load. This may increase the tax payment more than 10 times for a single passenger riding a 15-seat helicopter.

Many of these helicopter operators use neither airports nor airways communication facilities, two of the major facilities supported by this tax.

For example, one company in Alaska operates in Cook Inlet, maintaining two helicopters, owned or leased by oil com-

panies. The company maintains its own improvements, servicing the helicopters which support 13 permanent drilling platforms in Cook Inlet. They have their own flight-following procedures and communication facilities. They have no need of any governmental communication facilities. The only times such governmental facilities are utilized are infrequently, when the helicopters must return to Anchorage for major maintenance.

This situation is similar to that of many nonscheduled helicopter operators in Alaska. These operators go 4 to 6 months between utilizing FAA facilities.

Parenthetically, many of the helicopters utilizing FAA facilities in Anchorage are those with gross takeoff weights under 6,100 pounds. These are subject to the fuel tax, not the transportation tax.

Seldom is a helicopter over 6,100 pounds chartered on a noncompetitive basis because of the costs involved. They are hired on a competitive bid basis and often leave their base of operation for a considerable period of time. Between 80 and 90 percent of the total flight time of Alaska helicopter operations are in the bush, where FAA facilities for helicopters are nonexistent and unnecessary.

Taxes, such as the aircraft transportation tax, often yield extremely unfair results, especially in situations like the one in Cook Inlet I have just described, where many companies share the use of one helicopter. In such cases, the bookkeeping problems are immense for small operators. It is almost impossible to charge the proper customer fairly for the transportation taxes due.

Such problems arise because the helicopter operator must, several times a day, transport a varying number of passengers per helicopter to a number of different platforms owned by different oil companies and pick up passengers on each of the platforms for the return trip to shore or to other platforms out in the inlet.

As many as 28 passengers working for as many as six different companies may be transported on one flight. Out in the inlet, some passengers may deplane and others may board, only to be transported for a very brief flight to another platform or back to the mainland. To give you an idea of the briefness of the flight, the total flight takes but 20 minutes from the heliport to each of four platforms in Cook Inlet and back to the heliport again.

The taxes are extremely high and quite burdensome. A tax charge of $48 must be made on a 1-hour charter flight in a Bell 205A–1 for six people. The same six people would be required to pay only $8 each in transportation taxes on a Boeing 747 from Anchorage to Seattle. The total amount of the taxes collected is substantial. For example, a single Alaska helicopter operator was required to pay from July 1, 1970, to November 1, 1971, a total of $230,000 in transportation taxes. One customer alone was invoiced $47,000 in transportation taxes for the same 15-month period.

Helicopters not subjected to this tax are now, and would continue to be, subject to the fuel tax imposed by section 4041(c)(4) of the Internal Revenue Code—title 26, United States Code.

For these reasons, I hope serious consideration will be given to amending these transportation taxes for helicopters not operated on established routes. I ask unanimous consent that my bill be printed in the CONGRESSIONAL RECORD at this point.

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

S. 1822

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 4281 of title 26, United States Code, is amended by adding at the end thereof the following sentence: "Nor shall such taxes apply to transportation by a helicopter except when operated on an established line.".

By Mr. STEVENS:

S. 1823. A bill to further amend section 607 of the Merchant Marine Act, 1936, as amended, relating to vessel construction reserve funds, in order to provide that the modification or installation of certain radio equipment be included in the definition of "reconstruction" for the purpose of such section. Referred to the Committee on Commerce.

Mr. STEVENS. Mr. President, the bill I am introducing today will assist fishermen and vessel owners to buy, modify, and install marine radio equipment required under 47 CFR 83.351 (c) (3) (i). This section was added by the Federal Communications Commission for all vessels under an international agreement designed to make efficient use of the radio spectrum. This agreement stems from the 1967 Marine World Administrative Radio Conference. Its ramifications were not reviewed by the Senate. One of these ramifications entails additional cost to vessel owners required to purchase, modify and/or install new equipment required as a result of the conference. Although the FCC has phased in the new equipment requirements over a period of time in an attempt to minimize the burden on vessel owners, many owners are incurring substantial additional costs nonetheless. Under these regulations, all marine vessels previously required to have radios aboard must have VFA/FM radio capabilities by January 1, 1977. The cost of this radio equipment may range from $300 to $2,000.

This bill will assist vessel owners to meet these costs through tax savings and deferments under the Capital Construction Fund provision of the Merchant Marine Act of 1970. By adding a new definition of "reconstruction" to include such costs, this legislation will insure some expense will be saved by these mariners.

Mr. President, I believe this proposal has considerable merit for boat owners and fishermen, especially those suffering economic hardships, such as those caused by extremely poor salmon runs this past year in Alaska.

I request unanimous consent the bill be printed in its entirety in the CONGRESSIONAL RECORD at this point.

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

S. 1823

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 607(k) of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1177(k)), is further amended by inserting at the end thereof the following:

"(9) The term 'reconstruction' includes the purchase, modification, and installation of radio equipment in order to meet the requirements of the Federal Communications Commission established in 47 Code of Federal Regulations 83.351(c)(3)(i)."

By Mr. MAGNUSON (for himself and Mr. COTTON) (by request):

S. 1824. A bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes. Referred to the Committee on Commerce.

Mr. MAGNUSON. Mr. President, I introduce, by request, for appropriate reference a bill to amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes, and ask unanimous consent that the letter of transmittal, statement of justification, and section-by-section analysis be printed in the RECORD with the text of the bill.

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

THE SECRETARY OF TRANSPORTATION,
Washington, D.C., April 20, 1973.

Hon. SPIRO T. AGNEW,
President of the Senate,
Washington, D.C.

DEAR MR. PRESIDENT: The Department of Transportation is submitting for your consideration and appropriate reference a draft bill:

"To amend the National Traffic and Motor Vehicle Safety Act of 1966 to authorize appropriations, and for other purposes."

Since the enactment of the National Traffic and Motor Vehicle Safety Act in 1966, the Department has issued numerous Federal motor vehicle safety standards and notices of proposed standards designed to improve the safety performance of motor vehicles. In addition, the Department has conducted extensive research into accident causation and into innovative techniques for improving motor vehicle safety. These efforts are beginning to show benefits. Despite substantial annual increases in the number of drivers, vehicles and total vehicle miles since 1966, the rate of highway deaths per 100 million miles driven has steadily declined to a record low. Yet much remains to be done.

The purpose of this legislation is to amend the Act to improve the Department's effectiveness in preventing traffic crashes, and deaths and injuries resulting therefrom. This would be accomplished by strengthening and expanding the Secretary's information gathering, investigative and enforcement powers.

To help provide information necessary for the identification of vehicle safety problems and the development of motor vehicle safety standards, the Secretary would be expressly authorized to conduct such investigations as are necessary in the course of his research to carry out the purposes of the Act.

Multi-disciplinary crash investigation teams, acting under present authority, have had difficulty in persuading witnesses and especially parties to crashes to provide information necessary for safety research. This legislation would protect persons who are willing to aid the research effort by pro-

hibiting the use of team crash reports as evidence and would thereby facilitate obtaining vital crash information.

The effective implementation of the Act is highly dependent upon the ability of the Secretary to acquire information relating to all aspects of his responsibilities. To eliminate the lack of such authority, this legislation would authorize the Secretary to obtain cost data and other information required by him to carry out the Act. It would also authorize the Secretary to conduct informational hearings and to obtain evidence from any person who has any information relevant to the implementation of the Act.

This legislation would improve the Secretary's ability to enforce the Act in several ways. First, the civil penalty authority under the Act would be clarified by expressly providing that it extends to all rules, regulations and orders issued under the Act. This legislation would also authorize the Secretary to seek civil penalties against persons who impede vehicle safety research by failing or refusing to permit the temporary impounding or inspection of motor vehicles or the entry of premises for such purposes by crash investigation teams.

Second, a deficiency in the Act regarding the Department's injunctive authority would be remedied by providing for the restraining of the importation into this country, as well as the sale by American manufacturers, of vehicles which contain a safety defect. At present, the Act provides only for restraining the entry into this country or the sale of vehicles that fail to comply with all applicable safety standards. Further, the term, "defect which relates to motor vehicle safety", would be clarified.

Third, this legislation would clarify the Secretary's authority to inspect and investigate for the purpose of enforcing all rules, regulations, and orders issued under the Act and determining the existence of a safety defect or noncompliance. It would also require motor vehicle dealers and distributors to furnish requisite performance data and other relevant information. This amendment would enable the Department to enforce the Act under circumstances in which the necessary evidence is obtainable only from dealers or distributors.

Fourth, uncertainty as to whether the Tire Identification Regulation issued under section 113(f) is hortatory or mandatory with respect to distributors and dealers would be eliminated by providing that they are required to comply with applicable provisions of the regulation. Noncompliance with those provisions would subject the distributors and dealers to civil penalties.

The Act requires that the annual report on the administration of the Act be submitted by March 1 of the year following the year to which the report relates. However, some of the data necessary for the reports are typically unavailable for analysis until after that date. In order to provide adequate time for the preparation of a complete comprehensive report, the submission date would be changed to July 1.

To increase the Secretary's flexibility in acquiring test facilities for highway safety research, this legislation would authorize him to lease such facilities and to lease real property for use as sites for his construction of new facilities or alteration of existing facilities.

Appropriation would be authorized of such funds as are necessary to carry out the purposes of the Act. This open-ended authorization, which would replace the current specific yearly authorizations, would provide the funds necessary to implement the Act after the present authorization terminates on June 30, 1973.

We urge the prompt introduction and early enactment of this legislation.

The Office of Management and Budget has advised that this proposed legislation is consistent with the Administration's objectives.

Sincerely,

CLAUDE S. BRINEGAR.

STATEMENT OF JUSTIFICATION

Section 2. This section would clarify the term, "defect which relates to motor vehicle safety", which is used several places in the Act, including sections 111 and 113. The clarification would be accomplished by adopting the interpretation of the term that the Department has used in implementing the Act.

The interpretation was developed simply by combining the existing definitions of "motor vehicle safety" and "defect". Since the definition for "defect" would be rendered superfluous by the addition of the new definition, it would be deleted.

Section 3. This section would clarify the Secretary's authority to conduct such investigations as may be necessary in the course of research to carry out the purposes of the Act. Pursuant to existing authority under section 106, multi-disciplinary crash investigation teams have been established to conduct in-depth studies of motor vehicle crashes. The data collected by the teams are being used to develop a reliable and extensive data base concerning the cause and effect of such crashes. Without an adequate data base, measures concerning vehicle design and driver behavior might be formulated by Federal, State or local governments on the basis of inaccurate information and incorrect assumptions concerning crash causation.

The data collected by the crash investigation teams have already contributed to promulgation or proposal of many Federal motor vehicle safety standards. In addition, the data also facilitate evaluation of existing standards.

The full value of the crash investigation teams cannot, unfortunately, be realized under the present authority in section 106. Despite assurances by the teams that their only purpose is safety research, they have been hampered in their work by the reluctance of parties to crashes to divulge crash information and to permit inspection of their crashed vehicles. The instances in which this has occurred are numerous. In a single year, one team was unable to obtain the full or, in many cases, even the partial cooperation of parties to several hundred crashes. The refusal to cooperate generally stems from the fear of an individual or of his legal counsel or insurer that his statements to the research team might be used against him in a subsequent proceeding.

This lack of cooperation has frequently prevented the teams from obtaining information concerning driver behavior. The experience of the teams in attempting to inspect vehicles involved in crashes has often been equally frustrating. Analysis of crash causation is frequently complicated by alteration of the crash scene and the condition of the vehicles by wrecker crews. The inability of the teams to preserve the post-crash condition of vehicles is particularly critical in those crashes in which malfunction or other defect is suspected. Even when the teams succeed in obtaining permission to take a vehicle to their garage, they are not always able to conduct an adequate inspection. Frequently, the owner or his insurance company picks up the vehicle before the inspection can be completed.

The Department believes that it would be in the interest of motor vehicle safety to protect people who voluntarily contribute to safety research so that such research is enhanced and so that their very act of public spiritedness does not place them in jeopardy.

To remove the impediments to research and to protect such persons, this section would provide that no information furnished the Secretary by an individual concerning a crash and no portion of any report of the Secretary relating to a crash or the investigation thereof would be admissible in any subsequent proceeding, except certain proceedings conducted by the National Transportation Safety Board or the Department of Transportation. Similar restrictions on the use of reports by the Board on any crash or the investigation thereof appear at 49 U.S.C. 1441(e).

The Department believes that enabling the teams to assure parties to crashes and their representatives that their statements will not be used against them will allay their fears. The narrow exception concerning the Board's proceedings would permit this Department to continue to aid the Board in its safety work. The exception for this Department would ensure that the teams could continue to aid the Department in its establishment of Federal motor vehicle safety standards.

The prohibition against the use of information furnished the Secretary as evidence would not result in denying the public access to the findings of the crash investigation teams. All information concerning malfunctions or other defects in motor vehicles and concerning human behavioral factors related to crash causation would be published, but not so as to disclose the names or identities of individuals.

To ensure that the crash investigation teams will be able to preserve and inspect the condition of motor vehicles involved in motor vehicle crashes, this legislation would authorize the officers or employees duly designated by the Secretary to inspect such vehicles. They would also be authorized to impound such vehicles temporarily if necessary to conduct the inspections.

Sections 4 and 5. These sections would remove any doubt that the civil penalty authority under section 109 of the Act can be used to enforce all rules, regulations and orders issued under title I, including the tire identification regulation and all aspects of the important regulation on vehicles manufactured in two or more stages. These sections would also permit the Secretary to seek civil penalties against those persons who fail or refuse to permit impounding or inspection of motor vehicles or entry of premises for such purpose as required by the proposed new subsection (d) of section 106 of the Act.

Section 6. This section would expand the injunctive authority under section 110(a) of the Act so as to permit the restraining of (1) the importation into the United States of vehicles that contain a defect related to motor vehicle safety and (2) the sale of vehicles in this country that contain such a defect. This authority would enable the Department, when it learns of the existence of vehicles that comply with all applicable safety standards but are nevertheless defective, to obtain a court order stopping the manufacturer and/or dealers from continuing to sell the defective vehicles. (Those defective vehicles already sold would, of course, be the subject of a defect notification campaign currently provided for in section 113 of the Act).

This authority would also enable the Department to seek an injunction to prevent the importation or sale of foreign manufactured vehicles, certified as complying with the standards, but damaged in transit to such an extent that they are considered defective. Presently, these vehicles cannot be prevented from entering the country unless the Department has evidence of noncompliance with an applicable safety standard. In the past, several foreign vehicle manufacturers have advised the Department that

unauthorized dealers were attempting to bring irremediably damaged vehicles into this country.

Section 7. Paragraph (a) of this section would make it clear that the Secretary's authority under section 112(a) of the Act to conduct inspections and investigations can be used to carry out all provisions of the Act. The language of section 112(a) presently refers only to inspection and investigation for the purpose of enforcing the motor vehicle safety standards.

The language of section 112(b), however, is substantially broader. It refers to the entry and inspection of certain premises for the purpose of enforcing title I of the Act. The proposed amendment would eliminate the inconsistency in the language of these two subsections of section 112 concerning the scope of the Secretary's inspection and investigation authority by amending section 112(a) to authorize expressly inspection and investigation for the purpose of enforcing title I and any rules, regulations or orders issued thereunder. The amendment would remove any doubt that the Secretary has the authority to inspect and investigate for the purpose of enforcing not only motor vehicle safety standards, but also any other rule or regulation issued under title I. The amendment would also make clear that the Secretary's authority under section 112 includes the authority, implied by his disclosure authority in section 113(d), to inspect and investigate for the purpose of determining the existence of a defect related to motor vehicle safety.

Paragraph (c) of this section would expand the Department's information-gathering authority by amending section 112(c) to require distributors and dealers to furnish the Department with information relating to investigatory matters. Section 112 presently requires such information from manufacturers only. In some instances, however, information necessary to the enforcement of the Act may be obtainable only from distributors or dealers. The problem is particularly likely to arise in safety-defect investigations or situations in which the distributor or dealer alters a vehicle or item of motor vehicle equipment after the manufacturer has certified the compliance of the vehicle or equipment with all applicable safety standards.

Paragraph (d) of this section would enable the Secretary to obtain from the manufacturers of motor vehicles and motor vehicle equipment such information as he requires to carry out the Act. One result of the lack of such authority has been the difficulty in obtaining cost and leadtime information from manufacturers to aid in the evaluation of proposed motor vehicle safety standards and in the establishment of reasonable effective dates therefor. Although this information is frequently requested by the Secretary at the time that new standards are proposed, almost none is received.

Paragraph (d) of this section would also authorize the Secretary to conduct informational hearings and to obtain evidence from any person who has any information relevant to the implementation of the Act. Despite the vital importance of information gathering to successful implementation of the Act, the Secretary does not possess general authority for this purpose. This lack is anomalous in view of the extensive information gathering authority in the property damage reduction provisions of the Motor Vehicle Information and Cost Savings Act. This paragraph would give us similar broad authority in the more important pursuit of preventing highway deaths and injuries.

Paragraph (e) of this section would prohibit, except in expressly specified situations, the Secretary from disclosing information received under the new subsection (d) or (e) if it contained a trade secret or other material referred to in 18 U.S.C. 1905. This prohibition is necessary to balance the public need for information against the possibly adverse competitive effects of overly broad dissemination.

Section 8. Paragraph (a) of this section is a clarifying amendment that would remove any doubt that notifications sent by manufacturers pursuant to the Secretary's determination of a safety defect or noncompliance under subsection (e) of section 113 of the Act must be sent to first purchasers, and subsequent warranty holders by certified mail and dealers by certified mail or other more expeditious means.

Paragraph (b) of this section is also a clarifying amendment that would expressly set forth the required contents of a noncompliance notification letter.

Paragraph (c) of this section would make it clear that distributors and dealers are required under section 113 to comply with the applicable provisions of the Tire Identification Regulation (49 CFR 574). We have reason to believe that there is some noncompliance by distributors and dealers and that the noncompliance may be due, in part, to doubt as to whether the regulation is mandatory or merely hortatory. This amendment would give unambiguous notice to all parties concerned that civil penalties may be assessed against distributors and dealers who fail to comply with the regulation.

Section 9. Section 120(a) of the Act requires that the annual report on the administration of the Act be submitted by March 1 of the following year. However, some of the data necessary for the report are typically not available for analysis until after that date. This information includes many types of data from State agencies, such as detailed information on crashes, and deaths and injuries resulting therefrom. In order to provide adequate time for the preparation of a complete, comprehensive report, this section of the bill would change the submission date to July 1.

Section 10. This section would authorize the appropriation of such funds as may be necessary to carry out the purposes of the Act. These funds would be used for the following program activities: motor vehicle and equipment safety standards, safety standards compliance testing, defects analysis, and supporting research and development. The current authorization under the Act terminates June 30, 1973.

Section 11. This section would permit the Secretary to take advantage of those situations in which leasing arrangements would be a more economical means of obtaining the use of facilities or real property than complete acquisition.

SECTION-BY-SECTION ANALYSIS OF DRAFT BILL TO AMEND THE NATIONAL TRAFFIC AND MOTOR VEHICLE SAFETY ACT OF 1966

Section 2. This section amends section 102 to provide a definition of a "defect which relates to motor vehicle safety", a term used several places in the Act, including sections 111 and 113. The new definition is formed by combining the definitions in section 102 for "motor vehicle safety" and "defect". Since "defect" is not used in the Act except as part of "defect which relates to motor vehicle safety", the separate definition for the former term becomes unnecessary upon the adoption of this amendment and is, therefore, to be deleted.

Section 3. This section adds a new subsection (d) to section 106 of the Act.

Paragraph (1) of subsection (d) clarifies the Secretary's authority to investigate motor vehicle crashes for gathering information and data to aid research authorized by section 106. The Secretary is required to cooperate with State and local officials while conducting his investigations.

For the purpose of conducting the investigations, paragraph (2) of subsection (d) authorizes officers or employees duly designated by the Secretary (1) to enter, at reasonable times and in a reasonable manner, any premises where any crash-involved motor vehicle or item of motor vehicle equipment is located; (2) to impound temporarily for a period not to exceed 72 hours any crash-involved motor vehicle or item of motor vehicle equipment; and (3) to inspect any crash-involved motor vehicle or item of motor vehicle equipment. This paragraph includes the authority to inspect or impound for the purpose of inspection any motor vehicle or item of motor vehicle equipment located at the scene of the crash in which such vehicle or equipment was involved.

Paragraph (3) of subsection (d) requires that whenever an inspection and/or impounding of a vehicle by the Secretary results in the denial of the use of the vehicle to its owner or reduction in its value, the Secretary shall pay reasonable compensation to the vehicle owner.

Paragraph (4) of subsection (d) authorizes the Secretary to obtain a copy of an autopsy report prepared by State or local officials concerning any person who dies in or as a result of a motor vehicle crash.

Paragraph (5) of subsection (d) provides that no portion of any statement or information furnished the Secretary by an individual and no portion of any report of the Secretary relating to a motor vehicle crash or the investigation thereof shall be admissible in any subsequent criminal, civil, or administrative proceeding, except administrative proceedings held by the National Transportation Safety Board under section 5(b)(1) of the Department of Transportation Act and administrative proceedings held by the Department of Transportation under section 103 of the National Traffic and Motor Vehicle Safety Act. This amendment does not prevent a party or witness to a crash from adducing in any proceeding any statement or information that he may have also previously furnished the Secretary concerning such crash. It simply prevents him or any other person from attempting to use the knowledge of departmental employees or agents concerning the statements or information for evidentiary purposes.

Paragraph (6) of subsection (d) provides that the term "motor vehicle crash", as used in subsection (d), means an occurrence associated with the operation of a motor vehicle in or as a result of which any person suffers death or personal injury, or in which there is property damage.

Section 4. This section adds (1) the failure or refusal to permit entry, impounding, or inspection, as required under subsection (d) of section 106, and (2) the failure to comply with any rules, regulations or orders issued under title I of the Act, to the list in subsection (a) of section 108 of acts that constitute violations of the Act. This section permits the Secretary to seek civil penalties against persons who violate subsection (d) of section 106. It also clarifies his authority to seek civil penalties against persons who fail to comply with motor vehicle safety standards or any other rule or regulation issued under title I.

Section 5. This section deletes from section 109 of the Act language that would become superfluous upon the addition of the failure to comply with any rules, regulations or orders issued under title I to the list in subsection (a) of section 108 of the acts that constitute violations of the Act.

Section 6. Paragraph (a) of this section amends subsection (a) of section 110 of the Act to permit the Secretary to seek an injunction against the sale, offer for sale, introduction or delivery for introduction in interstate commerce, or importation into the United States, of any motor vehicle or item of motor vehicle equipment that contains a defect that relates to motor vehicle safety.

Paragraph (b) of this section complements paragraph (a) by amending subsection (a)

of section 110 to require the Secretary, whenever practicable, to give notice to any person against whom injunctive relief, authorized by paragraph (a), is contemplated, and afford such person an opportunity to present his views and to remedy the defect.

Section 7. Paragraph (a) of this section amends subsection (a) of section 112 of the Act to clarify the Secretary's authority to conduct such inspection and investigation as may be necessary to enforce title I or any rules, regulations or orders issued under title I.

Paragraphs (b) and (c) of this section amend subsections (b) and (c) of section 112, respectively, to conform with the amendments to subsection (a) of section 112 made in paragraph (a) of this section.

Paragraph (c) also amends subsection (c) of section 112 to require that distributors and dealers of motor vehicles and motor vehicle equipment furnish the Secretary with such information and data as he may require to carry out his enforcement responsibilities. Other requirements in this subsection, imposed upon manufacturers, are not imposed upon distributors and dealers.

Paragraph (d) of this section amends section 112 to require that manufacturers of motor vehicles and motor vehicle equipment furnish the Secretary, upon his request, with cost data and such other information as the Secretary may require to carry out the Act.

Paragraph (d) of this section also amends section 112 to authorize the Secretary to conduct informational hearings and to obtain evidence from any person who has any information relevant to the implementation of the Act. The Secretary may secure such information voluntarily or by use of subpoena powers or by issuing general or special orders which compel its production. In the conduct of the hearings under this section, the Secretary is authorized to administer oaths and to pay witnesses.

Paragraph (e) of this section amends subsection (g) of section 112 to provide that any information that the Secretary obtains pursuant to the authority accorded him by the new subsections (d) or (e) shall be considered confidential if it relates to a trade secret or other matter referred to in Section 1905 of Title 18 of the U.S. Code. However, the Secretary is authorized to disclose such information to other officers or employees concerned with implementing the Act or when relevant in any proceeding under the Act. Further, nothing in the amendment authorizes the Secretary to withhold any information from the duly authorized committees of the Congress.

Section 8. Paragraph (a) of this section amends subsection (b) of section 113 of the Act to clarify the requirement that notifications sent by manufacturers pursuant to the Secretary's determination of a defect or noncompliance under subsection (e) of section 113 must be sent to first purchasers, and subsequent warranty holders by certified mail and to dealers by certified mail or other more expeditious means.

Paragraph (b) of this section amends subsection (c) of section 113 to clarify the requirement that purchaser and dealer notifications sent by manufacturers pursuant to a determination by the Secretary under subsection (e) of section 113 of a noncompliance shall contain a clear description of the noncompliance, an evaluation of the risk to traffic safety reasonably related to the noncompliance, and a statement of the measures to be taken to remedy the noncompliance.

Paragraph (c) of this section amends subsection (f) of section 113 to make it clear that the procedures established by the Secretary under that subsection for the furnishing of information by distributors and dealers to tire manufacturers and mandatory and, therefore, are enforceable under the civil penalty authority in section 109 and the injunctive authority in section 110 of the Act.

Section 9. This section amends subsection (a) of section 120 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1408) to change the date for the submission to the Congress of the annual report on the administration of the Act from March 1 to July 1.

Section 10. This section authorizes the appropriation of such funds as are necessary to carry out the purposes of the Act.

Section 11. This section amends section 301 of the Act by authorizing the Secretary to lease test facilities and to lease real property for use as sites for his construction of new facilities or alteration of existing facilities. Subsection (a) of section 301 presently authorizes the Secretary to acquire, but not to lease, facilities or real property. This section also clarifies the Secretary's authority to acquire real property for use as sites for his construction of new facilities or alteration of existing facilities. This authority is implicit in the Secretary's authority to construct facilities.

In accordance with these amendments, this section also amends section 301 to require that a prospectus, submitted to the Congress pursuant to that section, contain an explanation of the need for leasing, rather than acquiring, any facility or real property.

S. 1824

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 "National Traffic and Motor Vehicle Safety Authorization Act of 1973".

SEC. 2. Subsection (11) of section 102 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1391) is amended to read as follows:

"(11) 'Defect which relates to motor vehicle safety' means any defect in design, construction, materials, components, or performance in motor vehicles or in items of motor vehicle equipment that would result in an unreasonable risk of accidents occurring or in an unreasonable risk of death or injury to persons in the event accidents do occur, and includes the nonoperational safety of such vehicles."

SEC. 3. Section 106 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1395) is amended by adding at the end thereof the following new subsection:

"(d)(1) The Secretary is authorized to conduct investigations of the facts, circumstances, conditions and causes of motor vehicle crashes for the purposes of gathering information to identify design failures or defects relating to motor vehicle safety, collecting data to assist in the preparation of Federal motor vehicle safety standards for new and used motor vehicles, and conducting other studies to carry out the purposes of this Act. In making such investigations the Secretary shall cooperate with appropriate State and local officials to the greatest extent possible consistent with the purposes of this subsection.

"(2) For the purpose of carrying out the provisions of this subsection, officers or employees duly designated by the Secretary, upon presenting appropriate credentials and a written notice to the owner, operator, or agent in charge, are authorized (1) to enter, at reasonable times and in a reasonable manner, any premises where any crash-involved motor vehicle or item of motor vehicle equipment is located; (2) to impound temporarily for a period not to exceed 72 hours any crash-involved motor vehicle or item of motor vehicle equipment; and (3) to inspect any crash-involved motor vehicle or item of motor vehicle equipment.

"(3) Whenever the Secretary inspects or temporarily impounds for the purpose of inspection any motor vehicle under this subsection (other than a vehicle subject to Part II of the Interstate Commerce Act), he shall pay reasonable compensation to the owner of such vehicle to the extent that such inspection or impounding results in the denial of the use of the vehicle to its owner or in the reduction of its value.

"(4) The Secretary is authorized to obtain, with or without reimbursement, a copy of the report of the autopsy performed by State or local officials on any person who dies as a result of having been involved in a motor vehicle crash.

"(5) No portion of any statement or information relating to a motor vehicle crash which has been furnished by an individual to the Secretary pursuant to research conducted under this section and no portion of any research report of the Secretary relating to such crash or the investigation thereof for research purposes shall be admissible in any subsequent criminal, civil, or administrative proceeding, except administrative proceedings conducted by the National Transportation Safety Board under section 5(b)(1) of the Department of Transportation Act or by the Department of Transportation under section 103 of the National Traffic and Motor Vehicle Safety Act.

"(6) As used in this subsection, 'motor vehicle crash' means an occurrence associated with the operation of a motor vehicle in or as a result of which any person suffers death or personal injury, or in which there is property damage."

SEC. 4. Subsection (a) of section 108 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1397) is amended by changing the period at the end of subsection (a)(4) to a semicolon and adding at the end of subsection (a) the following new paragraphs:

"(5) fail or refuse to permit entry, impounding or inspection, as required under section 106;

"(6) fail to comply with any rule, regulation or order issued under this title."

SEC. 5. (a) The first sentence in subsection (a) of section 109 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1398) is amended by deleting immediately after "any provision of Section 108" the following: ", or any regulation issued thereunder,".

(b) The second sentence in subsection (a) of section 109 of such Act is amended by deleting immediately after "a provision of section 108" the following: ", or regulations issued thereunder,".

SEC. 6. (a) The first sentence of subsection (a) of section 110 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1399) is amended by inserting immediately after "pursuant to this title," the following: "or to contain a defect which relates to motor vehicle safety,".

(b) The next to the last sentence in subsection (a) of section 110 of such Act is amended by deleting the period at the end thereof and adding the following: "or to remedy the defect."

SEC. 7. (a) Subsection (a) of section 112 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1401) is amended to read as follows:

"(a) The Secretary is authorized to conduct such inspection and investigation as may be necessary to enforce this title and any rules, regulations or orders issued thereunder. He shall furnish the Attorney General and, when appropriate, the Secretary of the Treasury any information obtained indicating noncompliance with this title or any rules, regulations or orders issued thereunder, for appropriate action."

(b) The first sentence of subsection (b) of section 112 of such Act is amended by inserting immediately after "purposes of enforcement of this title," the following: "or any rules, regulations or orders issued thereunder,".

(c) Subsection (c) of section 112 is amended to read as follows:

"(c) Every manufacturer of motor vehicles and motor vehicle equipment shall es-

tablish and maintain such records and make such reports, and every manufacturer, distributor or dealer shall provide such information, as the Secretary may reasonably require to enable him to determine whether such manufacturer, distributor or dealer has acted or is acting in compliance with this title or any rules, regulations or orders issued thereunder and shall, upon request of an officer or employee duly designated by the Secretary, permit such officer or employee to inspect appropriate books, papers, records, and documents relevant to determining whether such manufacturer, distributor or dealer has acted or is acting in compliance with this title or any rules, regulations or orders issued thereunder. Nothing in this subsection shall be construed as imposing reporting or recordkeeping requirements on distributors or dealers."

(d) Section 112 is amended by inserting the following new subsections immediately after subsection (c) and redesignating the succeeding subsections accordingly:

"(d) Every manufacturer of motor vehicles and motor vehicle equipment shall, upon request by the Secretary, provide him with cost data and such other information as he may require to carry out the purposes of this title.

"(e)(1) For the purpose of carrying out the provisions of this title, the Secretary, or on the authorization of the Secretary any officer or employee of the Department of Transportation may hold such hearings, take such testimony, sit and act at such times and places, administer such oaths, and require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, papers, correspondence, memorandums, contracts, agreements, or other records as the Secretary, or such officer or employee, deems advisable.

"(2) In order to carry out the provisions of this title, the Secretary or his duly authorized agent shall at all reasonable times have access to, and for the purposes of examination the right to copy, any documentary evidence of any person having materials or information relevant to any function of the Secretary under this title.

"(3) The Secretary is authorized to require, by general or special orders, any person to file, in such form as the Secretary may prescribe, reports or answers in writing to specific questions relating to any function of the Secretary under this title. Such reports and answers shall be made under oath or otherwise, and shall be filed with the Secretary within such reasonable period as the Secretary may prescribe.

"(4) Any of the district courts of the United States within the jurisdiction of which an inquiry is carried on may, in the case of contumacy or refusal to obey a subpoena or order of the Secretary or such officer or employee issued under paragraph (1) or paragraph (3) of this subsection, issue an order requiring compliance therewith; and any failure to obey such order of the court may be punished by such court as a contempt thereof.

"(5) Witnesses summoned pursuant to this subsection shall be paid the same fees and mileage that are paid witnesses in the courts of the United States."

(e) Subsection (g) of section 112 is amended by deleting "or (c)" immediately after "pursuant to subsection (b)" and substituting in lieu thereof the following: ", (c), (d) or (e)".

SEC. 8. (a) Subsection (b) of section 113 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1402) is amended by inserting immediately after "required by subsection (a)" the following: "or (e)".

(b) Subsection (c) of section 113 of such Act is amended to read as follows:

"(c) The notification required of a manufacturer by subsection (a) or (e) pursuant to the determination of the existence of a defect related to motor vehicle safety or of a failure to comply with an applicable Federal motor vehicle safety standard shall contain a clear description of such defect or failure, an evaluation of the risk to traffic safety reasonably related to such defect or failure, and a statement of the measures to be taken to remedy such defect or failure."

(c) Subsection (f) of section 113 of such Act is amended by deleting the second sentence and substituting in lieu thereof the following: "The Secretary may establish, by order, procedures that shall be followed by manufacturers in establishing and maintaining such records, and procedures that shall be followed by distributors and dealers to assist manufacturers to secure the information required by this subsection. Procedures established pursuant to this subsection with respect to distributors and dealers shall not affect the obligation of manufacturers under this subsection."

SEC. 9. The first sentence of subsection (a) of section 120 of the National Traffic and Motor Vehicle Safety Act (15 U.S.C. 1408) is amended by deleting "March 1" and substituting in lieu thereof the following: "July 1".

SEC. 10. Section 121 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1409) is amended to read as follows:

"SEC. 121. There are authorized to be appropriated such funds as necessary to carry out the purposes of this Act."

SEC. 11. (a) The first sentence of subsection (a) of section 301 of the National Traffic and Motor Vehicle Safety Act of 1966 (15 U.S.C. 1431) is amended by deleting all that precedes "except that" and inserting in lieu thereof the following:

"SEC. 301. (a) The Secretary of Transportation is authorized—

(1) to plan, design, and construct new facilities,

(2) to alter existing facilities,

(3) to lease facilities, and

(4) to acquire or lease real property for use as sites for his construction of new facilities or alteration of existing facilities,

suitable to conduct research, developing, and compliance and other testing in traffic safety, including highway safety and motor vehicle safety,".

(b) The first sentence of subsection (a) of section 301 of such Act is further amended by striking "or construction", each place it appears in the sentence, and inserting in lieu thereof the following: "constructing, altering, or leasing".

(c) The second sentence of subsection (a) of section 301 of such Act is amended by deleting "or constructed" and substituting in lieu thereof the following: "constructed, altered, or leased".

(d) The second sentence of subsection (a) of section 301 of such Act is further amended by deleting "and" at the end of clause (3), by changing the period at the end of clause (4) to a semicolon, and by adding a new clause (5) as follows: "and (5) a statement of the justification for leasing any facilities or real property.".

ADDITIONAL COSPONSORS OF BILLS

S. 433

At the request of Mr. MANSFIELD (for Mr. MAGNUSON) the Senator from Florida (Mr. GURNEY) was added as a cosponsor of S. 433, to assure that the public is provided with an adequate quantity of safe drinking water, and for other purposes.

S. 504

At the request of Mr. KENNEDY, the Senator from Washington (Mr. MAGNUSON) was added as a cosponsor of S. 504, to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive emergency medical service systems.

S. 753

Mr. SCOTT of Pennsylvania. Mr. President, I ask unanimous consent that the name of the distinguished Senator from South Dakota (Mr. MCGOVERN) be added as a cosponsor of S. 753, a bill to amend the Disaster Relief Act of 1970.

The ACTING PRESIDENT pro tempore (Mr. STAFFORD). Without objection, it is so ordered.

S. 1032

At the request of the Senator from Indiana (Mr. BAYH), the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1032, to provide for loans for the establishment and/or construction of municipal, low-cost, nonprofit clinics for the spaying and neutering of dogs and cats, and for other purposes.

S. 1402

At the request of Mr. HARTKE, the Senator from West Virginia (Mr. RANDOLPH), was added as a cosponsor of S. 1402, the National Blood Bank Act.

S. 1407

At the request of Mr. BURDICK, the Senator from Michigan (Mr. HART) was added as a cosponsor of S. 1407, to amend the Interstate Commerce Act in order to give the Interstate Commerce Commission certain authority over railroad car service when an emergency is or may be imminent.

S. 1440

At the request of Mr. PROXMIRE, the Senator from California (Mr. CRANSTON) was added as a cosponsor of S. 1440, to assure that Federal housing assistance programs are carried out to the full extent authorized by Congress.

S. 1520

At the request of Mr. ROTH, the Senator from Tennessee (Mr. BAKER), the Senator from Nevada (Mr. BIBLE), the Senator from Arkansas (Mr. FULBRIGHT), the Senator from Maryland (Mr. MATHIAS), the Senator from Illinois (Mr. PERCY) and the Senator from Missouri (Mr. SYMINGTON) were added as cosponsors of S. 1520, to establish a commission to study all laws, and executive branch rules, regulations, orders, and procedures, relating to the classification and protection of information for the purpose of determining their consistency with the efficient operation of the Government, including the proper performance of its duties by the Congress.

S. 1682

At the request of Mr. HARTKE, the Senator from Idaho (Mr. CHURCH) was added as a cosponsor of S. 1682, a bill to prevent foreign assistance to certain countries which fail to cooperate in efforts to control illicit traffic in narcotics.

S. 1727

At the request of Mr. INOUYE, the Senator from Indiana (Mr. HARTKE) was added as a cosponsor of S. 1727, to incorporate the Pearl Harbor Survivors Association.

SENATE RESOLUTION 115—SUBMISSION OF A RESOLUTION TO PAY TRIBUTE TO MEMBERS OF THE ARMED FORCES WHO ARE MISSING IN ACTION IN INDOCHINA

(Considered and agreed to later in the day).

Mr. BROOKE (for himself, Mr. ABOUREZK, Mr. BAKER, Mr. BARTLETT, Mr. BAYH, Mr. BEALL, Mr. BENNETT, Mr. BIBLE, Mr. BUCKLEY, Mr. BURDICK, Mr. CLARK, Mr. COTTON, Mr. CRANSTON, Mr. CURTIS, Mr. DOLE, Mr. DOMINICK, Mr. EASTLAND, Mr. GRAVEL, Mr. GRIFFIN, Mr. HART, Mr. HASKELL, Mr. INOUYE, Mr. JACKSON, Mr. MANSFIELD, Mr. MATHIAS, Mr. MCGEE, Mr. MCINTYRE, Mr. MONDALE, Mr. MOSS, Mr. RANDOLPH, Mr. SCOTT of Pennsylvania, Mr. SCOTT of Virgina, Mr. STAFFORD, Mr. STEVENS, Mr. TAFT, Mr. THURMOND, Mr. TOWER, Mr. WILLIAMS, Mr. YOUNG, Mr. KENNEDY, Mr. HUMPHREY, Mr. GOLDWATER, Mr. CASE, Mr. BELLMON, Mr. PERCY, Mr. SAXBE, Mr. PEARSON, Mr. BROCK, Mr. FANNIN, Mr. FONG, Mr. MCCLURE, Mr. HELMS, Mr. HARTKE, Mr. HATFIELD, Mr. PASTORE, Mr. GURNEY, Mr. DOMENICI, Mr. RIBICOFF, Mr. COOK, Mr. AIKEN, Mr. HRUSKA, Mr. ROTH, Mr. WEICKER, Mr. JAVITS, Mr. HANSEN, and Mr. MAGNUSON) submitted a resolution (S. Res. 115) to pay tribute to members of the Armed Forces who are missing in action in Indochina, which was considered and agreed to.

(The resolution is printed in full when it was submitted and agreed to and appears at a later point in the RECORD.)

SENATE RESOLUTION 116—SUBMISSION OF A RESOLUTION TO PROVIDE ADDITIONAL FUNDS FOR THE COMMITTEE ON APPROPRIATIONS

(Referred to the Committee on Rules and Administration.)

Mr. MCCLELLAN submitted the following resolution:

S. RES. 116

Resolved, That the Committee on Appropriations hereby is authorized to expend from the contingent fund of the Senate, during the Ninety-third Congress, $75,000, in addition to the amount and for the same purpose, specified in section 134(a) of the Legislative Reorganization Act, approved August 2, 1946.

ADDITIONAL COSPONSORS OF RESOLUTIONS

SENATE RESOLUTION 94

At the request of Mr. STEVENS, the Senator from Illinois (Mr. PERCY) was added as a cosponsor of Senate Resolution 94, requesting the President to enter into negotiations with major oil importing countries to establish an international organization of oil importing countries.

SENATE RESOLUTION 109

At the request of Mr. STEVENSON, the Senator from Idaho (Mr. CHURCH), and the Senator from Louisiana (Mr. JOHNSTON) were added as cosponsors of Senate Resolution 109, a resolution requesting the Attorney General-Designate of the United States to take actions insuring the independence of the special prosecutor to be appointed in connection with the investigation of illegal activities arising out of the Presidential election of 1972.

SUPPLEMENTAL APPROPRIATIONS BILL, 1973—AMENDMENT

AMENDMENT NO. 133

(Ordered to be printed, and to lie on the table.)

Mr. HUMPHREY submitted an amendment, intended to be proposed by him, to the bill (H.R. 7447) making supplemental appropriations for the fiscal year ending June 30, 1973, and for other purposes.

AMENDMENT OF SMALL BUSINESS ACT—AMENDMENTS

AMENDMENT NO. 134

(Ordered to be printed, and to lie on the table.)

Mr. STEVENSON submitted amendments, intended to be proposed by him, to the amendment No. 97, intended to be proposed by Mr. TAFT to the bill (S. 1672) to amend the Small Business Act.

AMENDMENT NO. 135

(Ordered to be printed, and to lie on the table.)

Mr. STEVENSON submitted an amendment, intended to be proposed by him, to Senate bill 1672, supra.

ADDITIONAL COSPONSORS OF AMENDMENTS

AMENDMENT NO. 98 TO S. 1248

At the request of Mr. EAGLETON, the Senator from Illinois (Mr. STEVENSON) was added as a cosponsor of amendment 98 to the State Department authorization bill (S. 1248).

AMENDMENT NO. 125 TO S. 1672

At the request of Mr. EAGLETON, the Senator from Illinois (Mr. STEVENSON), the Senator from Wisconsin (Mr. NELSON), the Senator from Kentucky (Mr. COOK) and the Senator from Arkansas (Mr. FULBRIGHT) were added as cosponsors of amendment No. 125 to S. 1672, to amend the Small Business Administration Act.

NOTICE OF RESCHEDULING OF HEARINGS ON S. 1463 AND S. 1678

Mr. BURDICK. Mr. President, on behalf of the Subcommittee on National Penitentiaries of the Committee on the Judiciary, I announce that the hearings on S. 1463 and S. 1678, previously scheduled for May 15, 1973, have been rescheduled. The hearings will be held on May 22, at 10 a.m. in room 2228 of the Dirksen Senate Office Building. Anyone wishing to testify should contact the subcommittee at extension 225–8994.

ADDITIONAL STATEMENTS

WELCOME TO ALASKA—THE GREAT LAND

Mr. STEVENS. Mr. President, Alaska attracts many tourists. Its scenic beauty and diverse cultures provide an esthetic and educational smorgasbord for people throughout the world. We are centrally located on a number of great circle air routes connecting major cities, countries, and continents.

Alaskans extend a warm and legendary hospitality to all comers. We welcome visitors—not just to our land but to our homes and lives too. We are proud—to excess—of our State and its natural wonders.

The Alaska Division of Tourism recently announced that in 1972 during the 5-month summer travel period, Alaska hosted more than 160,000 tourists. That is about 14,000 persons more than had been expected.

Surveys taken of traffic on the Alaskan Highway, the cruise ships, and aboard airplanes resulted in these statistics: Inbound travelers to Alaska totaled 239,795 persons; of these, 161,375 listed tourism as the reason for their trip; 71,446 were residents of the State. The rest were traveling for business, military, or other nontourist purposes.

The State forecasts that 1973 will show a further increase in tourism. Rising real incomes in the United States and increased promotion of Alaska tourism within Japan are expected to yield an increase in the number of visitors to Alaska of more than 20 percent.

This will be the first full year of a special triangle fare between Tokyo, Anchorage, and Honolulu. Also Japan Airlines has launched a $300,000 advertising campaign to promote tourism in the 49th State. Several German groups, plus other foreign tour groups will visit Alaska this coming year. However, most of Alaska's visitors will come from the Lower 48.

Five new cruise ships have been added to those already plying southeastern Alaska waters, and the State expects a 25-percent increase in the number of passengers this year.

We hope these figures will increase. I would like to extend an invitation to all my colleagues in both Houses, their staffs and families, and to the people they represent—which just about covers everyone in America—to come visit Alaska. The name "Alaska" means the Great Land—we would like to share it with you.

ENVIRONMENTAL PRIORITIES

Mr. SPARKMAN. Mr. President, from the perspective of the environment and urban affairs of our country, I believe a new sense of national priorities is emerging. We are going to have to make some tough decisions, and balance some very important national objectives against each other, but I think we have already made some important steps in the right direction. In this regard, and without undue detail, I would like to comment on this direction.

Since the beginning of our Nation's history, Congress and the Federal Government have dealt with environmental issues, but with objectives centering largely on development of our economy: The building of dams for irrigation and flood control, establishment of the Tennessee Valley Authority, which has so greatly benefited my State and area, stimulation of oil supply, for example. The adverse side effects of such development activity were not perceived in those early days. Actually, efforts to preserve environmental amenities mainly

concerned establishment of our national parks.

CITES LEGISLATION SUPPORT

I, accordingly, have actively supported legislation in past sessions of Congress and am currently sponsoring or cosponsoring at least 12 bills in this session designed to protect the environment of my home State of Alabama and the Nation.

In 1969, we passed the National Environmental Policy Act—NEPA—which I supported, and it was signed into law by the President on January 1, 1970. This was our first national policy on the environment as a whole. It committed the Nation to "efforts which will prevent or eliminate damage to the environment," and it made it our national policy to "encourge productive and enjoyable harmony between man and his environment."

Shortly after NEPA became law, President Nixon reorganized the Federal agencies, creating the Environmental Protection Agency—EPA. This Agency took under one wing the major environmental regulatory functions of several Government agencies, in the areas of air pollution, water pollution, noise, solid waste, pesticides, and radiation.

NATIONAL LAND USE POLICY

An important issue related to this which received serious consideration and lively debate in the last Congress was that of creating a national land use policy. The Senate passed a bill to establish such a policy, but the measure did not pass the House of Representatives.

The principal provisions of both the House and Senate measures were similar. Both bills proposed a national land-use policy which would encourage the development and implementation of State land-use programs through a program of Federal grants. The main purpose of the Senate bill was to provide technical and financial assistance to the States to help them improve their knowledge, procedures, institutions, and methods for land-use planning and management. Important new authority was also provided to improve coordination between the planning efforts of the Federal Government and State governments. The States would be required under the act to develop a statewide planning process within 3 years.

An environmental bill of special interest to Alabama is S. 22, a bill to establish a system of wild areas within the national forest system. Title II of this bill applies specifically to the Sipsey area of Bankhead National Forest, Ala. The bill seeks to provide permanent protection and enhancement of Sipsey so that the public may enjoy its natural wild state.

STRINGENT MEASURES NEEDED

A recent major report by the Conservation Foundation, "National Parks for the Future," warns that stringent measures will be needed to protect the magnificent natural features of these unique areas that have met our criteria for designation as national parks. Clearly, we must meet this challenge.

In a nation like ours where some 70 percent of the population live in urbanized surroundings, the quality of the urban environment is of critical concern.

The need for parks within or near cities has been shockingly neglected; a report by the Council on Environmental Quality informed us in 1971 that less than 3 percent of the 491 million acres of public recreation area in the United States is within 40 miles—that is an hour drive—from the center of metropolitan areas with over 500,000 people. Yet 90 million of our 200 million citizens live in such areas. The Council cited a net loss of 22,000 acres of urban parkland in the previous 6 years.

Another report, by the General Accounting Office, stated that during 1962–69 less than 6 percent of open space funds from the Department of Housing and Urban Development were provided to low-income neighborhoods, and this increased to only 30 percent in 1970. The report concludes that existing policies in both the Bureau of Outdoor Recreation and in the Department of Housing and Urban Development are not currently formulated to meet the needs of densely populated areas. One of the key problems responsible for this inadequacy is the inability of local financial resources to obtain and then maintain open spaces in cities. The high cost of land in the center of cities, and the lack of operating funds is almost prohibitive, and is one reason that the Federal grants more often go to affluent and less densely populated suburban areas.

OPEN SPACE LEGISLATION

In the 91st Congress, 10 new recreation units were added to the national park system, and the basic tool of land acquisition, the land and water conservation fund, was increased. A precedent in open space legislation was also set with the establishment of two vast national recreation areas, adjacent to two of our largest metropolitan areas. The new awareness of urban environmental needs was acknowledged by this legislation and our entire park system was enhanced by this new concept—the urban national recreation area.

In addition to supporting this legislation for the entire Nation, I have also included among the environmental bills I am working for this session bills to: First, establish Cathedral Caverns, Ala., as a national monument so that its stalagmite forests and frozen waterfalls may be preserved for future generations of Americans to enjoy; second, a bill to authorize the Secretary of the Interior to study the establishment of Bartram Trails, Ala., as a national scenic trail; and third, a bill to establish Tuskegee Institute as a national historic park.

One of our greatest environmental problems these days is the every day air we breathe. The Clean Air Act legislation went a substantial part of the way in providing a possible basis for essentially cleaning up the air, but solid waste remains an issue in which the solutions have not yet been put into law. Some wide-ranging changes in our packaging and recycling habits remain necessary before we begin to eliminate this very pressing problem.

AIR QUALITY, SOLID WASTE

Both the air quality and solid waste legislation will come up for renewal during this Congress, and there is no question in my mind that we must forcefully renew our commitment to keep working toward our goals for cleaner air and to come to grips with the problem of solid waste.

I have been particularly concerned with recent reports prepared by the task force for the National League of Cities and the U.S. Conference of Mayors commissioned by EPA that stated—

> The reduction of solid waste at its source is a national responsibility. The national disposal crisis is the result of national forces and practices which are beyond the scope of local government capacity to resolve and are not the products of local government policies.

As you know, the administration's proposed fiscal 1974 budget slashed Federal outlays for resource recovery and reduction of solid waste from $30 million to $5.8 million and limited EPA's role to supervision of toxic waste disposal.

A NATIONAL PROBLEM

The President acted in the name of local control, with the budget message he submitted to the Congress concluding that reducing solid waste is a "local, not a national problem." I highly concur with the 17-man task force composed primarily of mayors and local environmental, sanitation, and public works officials, as well as EPA Administrator William D. Ruckelshaus that "resource recovery is a Federal responsibility and it requires equitable policy treatment," in order to have an effective uniform program benefiting the entire country—and without such a large reduction in Federal funding.

The President by this budget action, not only is throttling this program, but is once again placing intolerable additional fiscal pressures on the Nation's municipalities. The end result of his budget cut might be that our cities will find it financially impossible to even continue their current solid waste programs.

These and other environmental achievements marked the 91st Congress. During 1971 and 1972, the years of the 92d Congress, the tempo of environmental progress kept up a rapid pace. I would like to mention its major environmental achievements:

Water pollution control legislation was enacted which matched the comprehensive nature of the air pollution enactment of 1970. It centers water pollution control in EPA, rather than allowing substantial authority to remain with the Army Corps of Engineers. It defines tough new criteria for State water quality programs, and provides for a vastly expanded assistance program for construction of State and local sewage treatment plants.

NOISE POLLUTION CITED

In the area of noise pollution, the very first Federal regulation of this problem was provided in the Environmental Noise Control Act of 1972.

The first Federal regulation of pesticides was also enacted during the last Congress. The EPA is given authority to classify all pesticides in "general" or "restricted use" categories, thus limiting the previously unchecked usage of the more dangerous types of poisons.

Coastal zone management legislation during 1972 provided for beneficial planning of the uses of coastal areas which

support important wildlife and fish, and which are under great pressure from development.

PROTECT THE OCEANS

Ocean dumping regulation was provided in the Marine Protection Research and Sanctuaries Act of 1972. This prohibits a wide range of practices which involved the dumping of hazardous or damaging materials into ocean or tributary waters.

After this pace and progress to protect our environment the 93d Congress will most assuredly be equally busy. In this session, in order to encourage small businesses to meet certain standards in solving some of the problems I have mentioned, I am cosponsoring a bill, S. 804, that provides economic disaster loans to small firms which have trouble financing equipment needed to help protect our environment. This bill will materially aid in the fight on pollution.

Cleaner air can mean some higher prices. More wilderness areas may cost us some timber. But with the proper determination, I think we can make it work.

In summary, I would say that the record of Congress shows great progress toward meeting important environmental goals. But it is clear that we have only made a beginning, and must stay hard at work to achieve the needed improvements in our environment.

THE ENERGY CRISIS

Mr. DOMINICK. Mr. President, shortages of fuel have occurred worldwide in a time when our drive to protect our environment has affected the use of certain fuels. All of us need to know as of today the present availability of supplies, their locations, and the problems confronting equitable distribution. It has been suggested to me that there may exist certain "brokers" endeavoring to make financial gain out of our crisis by market manipulation. Whether this is true or not I do not know. However, I have requested and have been assured that the Cost of Living Council has been and will be keeping a close watch on the present fuel situation and future actions in the market.

On Tuesday of last week, I joined with several of my distinguished colleagues in meeting with representatives from the Office of Emergency Preparedness and the Departments of the Interior and Treasury. These representatives included Darrell Trent, William Simon, and Steve Wakefield. The purpose of our meeting was to bring to their attention the gravity of our energy crisis as it relates to our farm and rural communities. When we hear of fuel shortages in this body, we know that for many of us, the shortage may result in inconvenience ranging from being able to drive a little less to rearranging our vacation schedules. However, our farmers cannot rearrange the schedule of mother nature—their work must be done on time. For them the words "we are looking into the problem" means no answer to his critical need.

In my State, distributors are being cut back or cut off, distributors who provide fuel to our farmers. The grave consequences of the fuel crisis for farmers include less crops to financial ruin. We are now in a period of the year when planting is critical, and delay will affect all of our citizens. When it is recalled that this past winter was very severe for many of our farmers and ranchers and that our food supply today is critical, the importance of preventing a delay in the farmer's schedule is clearly demonstrated.

Mr. Simon, the conscientious and hard-working Deputy Secretary of the Treasury, expressed his belief that we would have his guidelines for solutions to our fuel shortage by next week. Our meeting in that respect was beneficial, but all of us know that too often the fruits of beneficial meetings wither by delay and indecisiveness. I, for one, would like to go on record as reaffirming my request that we see the solution by next week—we cannot get lost in further considerations or more analyses. The time for action is now so that all of us may seek to solve our energy crisis.

THE FOREST SERVICE NEEDS ADEQUATE FUNDING

Mr. CHURCH. Mr. President, recently I presented testimony to the Subcommittee on Interior Appropriations of the Senate Appropriations Committee on the subject of Forest Service funding.

I ask unanimous consent that the text of my remarks appear at this point in the RECORD.

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

THE FOREST SERVICE NEEDS ADEQUATE FUNDING

(Testimony by Senator CHURCH)

Mr. Chairman, it is a difficult time to discuss funding for any domestic program in light of the prerogatives which the Executive Branch of government claims to itself. I sometimes feel, and I am sure that many of my colleagues share the feeling, that our actions in determining priorities for this nation, have taken on a hollow ring.

Last year, Congress appropriated nearly $30 million in additional funds for the Forest Service to carry out crucial programs of resource management. Not one penny of the additional money, appropriated after lengthy hearings, was expended by the Nixon Administration. In what has to rank as another example of countermanding Presidential Power, totally uncontemplated by the Constitution, President Nixon's aides at the Office of Management and Budget disregarded Congressional priorities and refused to spend any of the extra money furnished by Congress.

Even though I cannot be optimistic as to what the final outcome of this year's battle over the Forest Service Budget will be, I cannot ignore the very real needs of this agency. If Congress again augments the Forest Service's budget, I only hope that the Nixon Administration will accept our decision. If not, then the continuing lumber shortage, the increasing acreage of unreplanted forests, and the shameless waste of diseased and dying trees can be laid on the steps of the White House—where it belongs.

We might well be asked, and rightly so, "If you are going to put $105 million back into the Forest Service budget, then where are you going to cut funds so that Congress does not break a $268 billion spending ceiling?" I think the answer to that is so obvious as not to need elaboration. If this Administration thinks we can afford $2.5 billion to provide aid to North Vietnam, we can surely find a way to restore $105 million for the management of our National Forests. As one who opposes aid to North Vietnam, I have no trouble supporting additional funds for the Forest Service.

There are places where we can cut the budget. I can think of a lot of them. The war is now over. I don't see any reason why the military budget has to go up another 5 billion dollars, to a level much higher than at the peak of our involvement in Vietnam. We've put the last man on the moon. I don't see any reason why we have to increase the budget for the space program when we have so much need for applied technology right here on the ground. And I haven't the slightest idea why it is necessary, at this time, when the Federal Government has gone over 100 billion dollars into debt during the last four years, we should have to increase the foreign aid program. Yes, I can think of a lot of places where we should be cutting back public spending, but the last place we should cut is the management of our natural resources upon which the future wealth of this country so deeply depends.

ROADS AND TRAILS

Perhaps no more foolish cuts in funding could be made by the Administration than its proposed reduction of $71,140,000 for Forest Roads and Trails. The impact of this cut, if upheld, will be devastating both to public recreation and the timber industry.

The Administration maintains that the slack can be made up by transferring more costs of road construction to the private logger. The fact that this would also reduce the net returns to the government on timber sales goes unmentioned. Even if it were true that only loggers benefited from Forest Roads or that public policy should not encourage small business in the timber industry, the savings to the government of such a policy would be questionable. However, neither assumption is valid. Forest Roads are of benefit to recreation users of our forests, providing them with access to the out-of-doors. Forest Roads also benefit the government which can utilize them for fire control and other management activities. Moreover, Congress long ago established small business set-aside sales, a program made possible by legislation which I co-sponsored, which specifically recognizes the desirability of preserving competition in the forest-products industry by assuring smaller operators a part of the action.

If we transfer the heavy costs of road construction on to the timber purchaser, as the administration proposes, we will force many small logging operations out of business. The practical effect of the Administration proposal will be an accelerated movement toward giantism in the forest products industry. This type of economic concentration was precisely what the Congress sought to avoid by enacting legislation authorizing the small business set-aside program. I will have no part of this effort to indirectly undo the small operator.

FOREST-LAND MANAGEMENT

Equally disastrous, in terms of its long term effect upon our nation's forests, are the cuts proposed by the Nixon Administration in the area of Forest Land Management.

At a time when we are increasingly aware of the great importance of restoring our forests and finding new and better methods of harvesting timber, it is astonishing to see funds for reforestation, stand improvement and advanced conservation and improved silvicultural practices cut by over $8 million. Our distinguished colleague from Oregon, Senator Mark Hatfield has estimated that we presently face a backlog of 5 million acres of forest land in need of reforestation. Despite such a backlog the Forest Service is to be given even less money to get on with the job.

The excuse given for cutting the reforestation program is that this effort can be delayed without a severe impact. What I fear, however, is that the same excuse will be invoked, year after year. We are already far

behind in reforestation. Every year of delay seriously injures our ability to meet future demands on timber resources.

At the very least, Congress should reinstate this program at last year's level of funding.

COOPERATIVE FOREST FIRE CONTROL

Perhaps no clearer example of executive flim-flam can be found than the Administration's reduction of cooperative forest fire control funds. Under the President's budget, this program would be reduced by $9 million. We are told that the states can make up the differences with Federal revenue-sharing money, if they so desire. Of course, this argument ignores the President's promise that General Revenue Sharing would furnish the states with "new money". Now, we learn that the "new money" isn't new at all. The states are discovering that revenue-sharing funds are really being given in lieu of established Federal programs, with the states expected to make up the difference with their "new money." The more I see of "revenue-sharing," the better satisfied I am to have cast my vote against it, in the first place.

Even if the states are to pick up abandoned Federal efforts, I would think that cooperative forest fire control is a strange place to start the process. Under current arrangements, the states contribute $5.00 for every $1.00 the Federal Government spends. Five to one is a pretty decent ratio, from the standpoint of the Federal Government, for a cooperative state-federal program.

In light of the adverse impact a budget cut of this magnitude will have upon Idaho, I request that these funds be reinstated. Even though President Nixon may not spend the money so appropriated. I feel we should put the Senate on record as favoring the continuation of the cooperative forest fire control program at its current level.

FOREST SERVICE REORGANIZATION

One of the effects of the Forest Service budget cutbacks has been a radical reorganization of the agency itself. The Forest Service has announced a consolidation in its field operations and more centralized administration of Idaho Forests out of a single office in Portland, Oregon. This centralization entails the closing of two regional offices; one in Missoula, Montana, and the other in Ogden, Utah. The reorganization will also cause a reduction of payroll in Idaho. I don't believe, for a moment, that this reorganization will, as the Forest Service claims, allow the agency to better perform its tasks. On the contrary, increased centralization means decreased access by the people to the bureaucracy. Isn't it peculiar that an administration which condemns the concentration of federal power in "faroff Washington, D.C." now advocates the centralization of the Forest Service into ten regions while reducing the personnel in the field? Such a reorganization plan, I am sure, calls for the most careful review by Congress.

FUNDING FOR RECREATION AND ENVIRONMENTAL CONCERNS

Finally, Mr. Chairman, I would like to discuss the lack of funding in the budget to meet increasing recreational demands.

The use of public lands for recreation has skyrocketed. Last year alone, there was an 8 million visitor day increase in load on Forest Service administered lands. Nevertheless, the budget request for recreation programs is $10,000 below last year's level of funding.

Inevitably, the failure to make budgetary provision for burgeoning recreation, will mean extending and increasing use fees in the national forests.

Last year, I joined with the able Chairman of this Committee (Mr. Bible), in an attempt to insure that we would not nickel and dime families to death when they sought to enjoy our national parks and forest lands. We attempted to make the Golden Eagle Passport universal in its application to all developed federal outdoor recreation facilities. The passport would have been a vehicular tag priced at $25.00 a year, and would have covered all entry and use fees, wherever charged. It was our belief that such a program would help clear up the present confusion in use-fee practices. Unfortunately, although we met with success in the Senate, the House of Representatives would not agree to such a universal approach. Consequently, the Golden Eagle emerged as little more than an admission ticket to the carnival tent, as it were, and Idahoans are discovering that for each of the exhibits they must pay an additional fee. In our national parks, for example, it's a dollar for this and a dollar for that and 50 cents for each of the kids. And this plethora of special charges will only get worse as we crimp on the recreational budget.

I don't see the sense of furnishing the Forest Service with less money for recreation at a time when public demand for such services is skyrocketing.

No one will gain from these massive reductions in Forest Service funding. We should, at the very least, restore the Forest Service budget to last year's funding level. If this Committee, in its review of the budget in its totality, finds we can do more at this time, we should do more.

Let's take about 5% of that 2.5 billion dollars President Nixon says we should come up with for the rehabilitation of North Vietnam and put it to work on efforts to rehabilitate our national forests instead.

DANGER IN LIBERAL DEMOCRACY?

Mr. SAXBE. Mr. President, recently I read an article in the Washington Star by the syndicated columnist, Dr. S. I. Hayakawa, which I would like to share with my colleague.

Dr. Hayakawa, in analyzing an article by Prof. Irving Kristol, raises some interesting points concerning what the future holds for a liberal democracy which shuns those institutions that have been instrumental in formulating values which hold cultures together and provide for measured change.

It is a scholarly article which should give all who read it occasion to reflect upon its meaning. I ask for unanimous consent that it be printed in the RECORD.

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

A BASIC SUICIDAL FLAW IN OUR FREE SOCIETY?

(S. I. Hayakawa)

Does our free society contain a basic flaw that is causing it to commit suicide?

Professor Irving Kristol thinks it may. He presents in an article in "The Public Interest" entitled "Capitalism, Socialism and Nihilism" an interesting analysis of what has often been called the crisis of values in our time.

For most of the history of the human race, the direction a culture took was determined from above by aristocracies backed by military might; by established religions supported by the state and served by powerful priests and hierarchies; and in our own time, by political commissars who think they know better than the common people what is good for them.

In most cultures, ideas of right and wrong have originated from such sources of values as these, and these values have tended to hold the cultures together and to keep changes to a manageable minimum during any one generation.

But modern liberal democracy has rid itself of established religion and religion has become a private matter. In a diversified culture like ours there is no one source of values; values are relative and shifting. As Kristol points out, for centuries religious leaders, especially Catholic philosophers, have viewed with alarm the progressive departure of societies from their former reliance on divine law. Perhaps, he suggests, they may have been right.

We are now living on the accumulated moral capital of traditional religion, he says. It is running out—and we have no other consensus of values to take its place.

In our system of society, no authority exists to tell us what is good and desirable. We are each free to seek what we think is good in our way, and we do so by means of the free marketplace, which exists to supply people with what they want. If Smith wants to spend his earnings on fine clothes, Jones on his sailboat, and Brown on the Salvation Army—fine. It's a free country. Our society is "given shape through the interaction of a countless sum of individual preferences."

But Kristol points out that this secular liberal democracy is under attack on two fronts. Unlike the Old Left, which believed in material prosperity and technological progress, the New Left attacks the persent social order for its materialism—and would substitute an unspecified Utopia which is nonmaterial, nontechnical, yet conveniently served by machines. Any means, including violence, theft and civil disorder, are advocated to bring down the hated "System"—whereupon a higher system of values will be handed down by the new elite.

On the other hand, the related "counterculture" attacks the social order with a demand for absolute liberty in all areas, especially sex, and has brought about enormous changes in laws and mores in a very short time. Each new "victory" merely confronts its champions with a new frontier to be crossed—so we have quickly progressed from relaxing sexual prohibitions to pornography to sadism and the celebration of perversion.

Strangely, Kristol points out, capitalists see no connection between the counterculture and the threat to their own welfare. At least they are so eager to make money from a contemporary fashion that "large corporations today publish books and magazines, or press and sell records, or make and distribute movies, or sponsor television shows which celebrate pornography, denounce the institution of the family, revile the 'ethics of acquisitiveness,' justify civil insurrection, and generally argue in favor of the expropriation of private industry and the 'liquidation' of industrialists."

Perhaps they believe in some degree in a basic tenet of our society—in the free and unobstructed exchange of ideas out of which the best would survive.

But, in Kristol's disturbing words, "Perhaps (the liberal tradition) never really could believe that vice, when unconstrained by religion, morality and law, might lead to viciousness. It never really could believe that self-destructive nihilism was an authentic and permanent possibility that any society had to guard against. It could refute Marx effectively, but it never thought it would be called upon to refute the Marquis de Sade and Nietzsche."

If we cannot maintain our old faith that freedom and information will make good win out over evil; if we cannot agree on that line where liberty becomes license, and hold to it, if being relativists makes us unwilling to formulate our goals—what then will happen to our free and open society?

These are serious and troubling questions to me, as I think they should be to all of us, although I am not ready to give up being an optimist, a relativist, and a believer in a secular open society.

I think this is something we should all think about—and educators especially. What is the basis for a consensus of values in our society? Where do our goals and values come from? If we believe in a free society, what

limitations, if any, are we willing to place on that freedom so that society may protect and maintain itself?

BOYD A. MARTIN

Mr. CHURCH. Mr. President, I wish to pay tribute to a scholar who retires this month from the University of Idaho. He is Dr. Boyd A. Martin.

Dr. Martin is retiring after a career spanning 35 years of association with the University of Idaho as a professor of political science, head of the department of social sciences, dean of the College of Letters and Science, the recipient of the university's first endowed chair as Borah Distinguished Professor and director of the university's institute of human behavior.

These titles, however, tell only part of the story of a remarkable man and a remarkable career. Boyd Martin was present at the first United Nations Conference in San Francisco when the UN Charter was drafted. He has written extensively on international affairs, and yet he also found time to write about his own State.

When he was named Borah Distinguished Professor of Political Science in 1970, University of Idaho President Ernest Hartung summed up Boyd Martin well when he described him as "one of the university's most outstanding scholars and teachers."

Mr. President, there recently appeared in the Argonaut—the university newspaper—a lengthy article on Boyd Martin. I ask unanimous consent that it be printed in the RECORD.

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

[From the Argonaut, May 4, 1973]

IDAHO'S BOYD MARTIN WILL RETIRE AFTER 35 YEARS OF SERVICE TO IDAHO

A man who has served the University of Idaho as a professor of political science, head of the Department of Social Sciences from 1947–1955 and dean of the College of Letters and Science from 1955–1970 retires this May after 35 years of service.

Dr. Boyd A. Martin, named to the University's first endowed teaching chair as Borah Distinguished Professor of Political Science in 1970, has been director of the university's Institute of Human Behavior since he stepped down as dean three years ago. He has also continued as director of the University's Bureau of Public Affairs Research. He was the first man named to that post in a bureau he worked to see created in 1959.

"Dr. Martin, who is an Idaho native and a graduate of the University of Idaho, has long been recognized as one of the university's most outstanding scholars and teachers, and it is fitting the first teaching chair should go to him," President Ernest W. Hartung said on Martin's appointment as Borah Outstanding Professor.

Martin, who devoted his career to teaching and research in the areas of domestic and international politics, public administration and international politics, public administration and the cause of war and peace, was raised on grain and cattle farms in Idaho and Lewis counties in Idaho and graduated from Nezperce High School in 1929.

He received his bachelor's degree from the University of Idaho in 1936 and his master's degree from Stanford University in 1937, returning to Idaho the following year as an instructor. He completed his doctoral degree at Stanford in 1942, returned to his alma mater as an assistant professor and during the next four years rose to the rank of full professor.

Martin attended the first United Nations Conference, held in San Francisco, which drafted the UN charter. He also attended UNESCO regional meetings at Denver and San Francisco, chairing the humanities section at the latter meeting.

In a recent interview, Martin noted that the UN has done remarkably well considering the frame in which it was created. The UN is a negotiator—not sovereign—due to the existence of the veto, Martin said.

"The problem with the UN was that it was oversold. People thought it could do wonders. The UN won't be able to do anything about major wars until it is given the power to do so by the sovereign nations that compose it," Martin said.

Martin, who served as chairman of the Borah Foundation Committee for the Outlawry of War from 1947–1955, longer than any other professor, continued, "It is fair to say that the Vietnam war was an outgrowth of World War II and of the Cold War which developed in the closing days of that war. If analyzed from this point of view, historians will look back on this period and single out Stalinism as the greater factor in creating the Cold War. The ruthlessness of Stalinism alarmed world liberalism and dealt democratic socialism its greatest blow."

Commenting on the period since the end of World War II, Martin said the greatest development has been the rise of the multinational corporations. He predicted that the these organizations, though they may grow beyond the power of the nation-states to control them, may lead to the development of such things as multinational labor unions and ultimately to greater interdependence among the peoples of the world.

Martin has authored or co-authored several books including "The Direct Primary in Idaho" published by the Stanford University Press in 1947. He has contributed articles to numerous professional journals, served as state editor for the National Municipal Review and was on the editorial board of the Western Political Quarterly. Much of his writing has concerned politics and elections in Idaho.

"One of the great periods of change in Idaho was the development of the progressive movement that came after the appointment of Sen. William E. Borah to fill a vacancy of the U.S. Senate. That movement led to the direct primary law and initative and referendum." Martin said. "There has always been a liberal group in Idaho, never a majority but always influential. Borah had its support and Frank Church has it now. But there are more conservative votes in Idaho today than just a few years ago, as a result of the alienation of the middle classes from liberalism because of the new left," he added.

Commenting on other changes he has seen in his native state. Martin noted there has been a decline of anti-Mormonism and of sectionalism in public education though it shows up occasionally in higher education. He noted that the size of farms has been growing rapidly and that Idaho has now two metropolitan areas. Boise and the Idaho Falls-Pocatello area.

DISTINGUISHED CITIZEN

Martin predicted that Idaho's third metropolitan area will be the quad cities of Lewiston-Clarkson and Moscow-Pullman with Lewiston as the hub. "This may well occur if sufficient air and road transportation are developed in addition to slack water," he said.

Martin, who was selected as a Distinguished Citizen by the "Idaho Statesman" in 1970, has also written the section in Idaho to be included in the forthcoming book, "The Book of States," to be published by Encyclopedia Britannica in 1974. He has served Idaho as a member of the Constitutional Revision Commission from 1965–1970 and was a consultant to the Idaho Municipal League.

He was a member of the steering committee of the Northwest Conference on Higher Education from 1962–1967, serving as chairman during 1965–66.

EDUCATION EVALUATED

Commenting on higher education today, Martin noted that it has fallen from priority No. 1 to No. 3 or 4 in many states. "Higher education wasn't prepared for the late 1960s. Some university presidents ran for cover and some students exercised power beyond their experience. I don't think there's any question but that the new left was attempting to seize the universities and reshape them for their own ends," Martin said.

During this time, with technology putting people out of work, welfare funding was able to capture the No. 1 priority in many states with metropolitan populations, he said, adding that in Idaho public school education has moved up to take the top priority.

"I want to say, however, that the University of Idaho has been very fortunate over the years in having a high level student body. Idaho students come not from homes that are very wealthy or very poor but rather from substantial middle class families. They have strong middle class values and a middle class sense of responsibility. During the late 1960s, Idaho students were an important stabilizing factor on campus and the student body presidents and student leaders were excellent representatives of the University to the people of the state," the former dean said.

Martin and his wife Grace, who have traveled over much of the world, plan to keep their home in Moscow but also intend to put a trailer on some land they own in Cottonwood, part of the family property. They also hope to see much of their family including oldest son William A. Martin who is director of the Boise Head Start program, his wife Gloria and their three children, and son Michael A. Martin who has been in the oil business in Pullman, his wife Katherine, and their two children.

CONTINUED BOMBING IN INDOCHINA

Mr. BROOKE. Mr. President, the anguish and anxiety over our continued combat activities in Indochina is deeply felt by Members of Congress. I am encouraged by recent moves in the House of Representatives and in the Senate Appropriations and Foreign Relations Committees to curb our military presence in Indochina. I am convinced these actions reflect the deep feelings of the American people that U.S. combat activities serve no legitimate purpose and pursue no end that justifies the destruction and suffering that we are causing. In a May 12 editorial, the Quincy, Mass., Patriot Ledger eloquently stated the case against our continued military operations succinctly and forcefully. I wish to call my colleagues attention to this editorial and ask unanimous consent that the editorial be printed in the RECORD.

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

UNSUPPORTED BOMBING

Even the U.S. House of Representatives, which for years has supported three successive Presidents in their Indochina policies, has now gone on record against continued U.S. bombing in Cambodia.

In three separate votes Thursday, the

House made it clear it wants no more money spent on bombing Cambodia. The sense of the House was probably expressed by Majority Leader Thomas P. O'Neill, D-Cambridge, who said: "One Vietnam is too many. The nation wants no part of Cambodia."

Neither Secretary of Defense Elliot L. Richardson nor Secretary of State William P. Rogers have been able to persuade Congress of either an overriding national need to commit U.S. military power to the defense of Cambodia, or of a sound legal basis for authority to permit a President to carry out his policy without congressional approval.

Secretary Rogers' main argument the previous week before the Senate Foreign Relations Committee was that the bombing was implicitly permitted by the Vietnam ceasefire agreement so long as a separate ceasefire had not been signed in Cambodia.

This policy of bombing Communist forces until there is a Cambodian ceasefire agreement is as chimerical as it is expressly forbidden by the Paris accords on Indochina, While Mr. Rogers invokes "implicit" deductions, the agreement is very explicit on what is to be done:

Article 20—"(b) Foreign countries shall put an end to all military activities in Cambodia and Laos, totally withdraw from and refrain from reintroducing military advisers and military personnel, armaments, munitions and war material.

"(c) The internal affairs of Cambodia and Laos shall be settled by the people of each of these countries without foreign interference."

Instead of living up to our side of that agreement, the Nixon Administration is providing military equipment, fuel and air support to the Cambodian government, a government with which this country has no military alliance or other known commitment to protect.

The U.S. government is assuming that the North Vietnamese, with whom it signed the Paris accords, are commanding the war against the Lon Nol government, and that bombing Communist forces will (1) protect and strengthen the position of the Cambodian government, and (2) eventually force the Communist forces to be reasonable and negotiate a cease-fire with the government.

Both assumptions may be false. Reports from Cambodia say most of the anti-government forces are native Cambodian Communists (Khmer Rouge) and other dissidents, and the degree of command direction by the North Vietnamese is uncertain. As to the efficacy of the bombing, reports are that as in Vietnam, bombs are falling as frequently on innocent villagers as they are on the anti-government forces; and in any case, bombing of guerrillas dispersed in the countryside promises to provide more harassment than coercion to make peace.

Despite the clear sentiment of Congress, the Administration vows to transfer money from other parts of the Defense Department budget to finance Cambodian air strikes. Congress and the American people should not allow this to happen. There is no excuse to continue this senseless and open-ended misuse of American military power and the Administration should be forced to stop it.

MORE MONEY FOR COAL RESEARCH

Mr. STEVENSON. Mr. President, this year the Nation may spend $6 billion to import oil from abroad. The Nation will be compelled to spend many billions more abroad in the near future for energy unless we put first things first. I know of no better example of national irrationality than the expenditure of billions of dollars on undependable foreign sources of fossil fuel and next to nothing developing domestic sources of coal.

The United States has oil in the form of coal equal to 10 times the world's proven oil reserves. Coal can be converted to gas. It would make more sense to spend modest sums on our own coal reserves than to spend enormous sums abroad. To do so, we must begin by devoting more money to coal research. I ask unanimous consent that my testimony on this subject before the Interior Subcommittee of the Senate Appropriations Committee be printed in the RECORD.

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

STEVENSON ASKS DOUBLING OF FUNDS FOR COAL RESEARCH

Mr. Chairman, my remarks are directed to the budget of the Office of Coal Research. I am joined by your colleague on the Appropriations Committee, Senator Schweiker. Our position is strongly supported by many other members of the Senate.

Consumers in the United States depend on natural gas and oil to supply 79 percent of all their energy needs. Yet natural gas constitutes only 9 percent of our total domestic fossil fuel resources, oil 8 percent, and uranium only 4 percent. The rest—almost 80 percent of our fossil fuel resources—is made up of our 3 trillion tons of coal. In short, we have come to rely on those fuels in shortest supply for the greatest part of our energy requirements, while our greatest single source of energy is relatively underutilized.

We are all aware of the increasing pressures on our oil and gas reserves, the more so after the frightening shortages of this relatively mild winter, the present shortages this spring, and the even greater shortages predicted for this summer. Given the present demand and domestic supply curves, if we continue our present policies, the situation will become much worse before it becomes any better. The demand for oil by 1985 may reach 10 billion barrels per year, and some experts say that upwards of two-thirds of this demand, given our present methods of producing oil, may have to be met by imports. Even a conservative estimate puts the figure at 50 percent.

Similarly, recent estimates of the natural gas situation predict a near doubling of the demand for natural gas between 1971 and 1985, from 22 trillion cubic feet per year to from 35 to 40 trillion. The gap between this demand and what our domestic reserves can supply in 1985 has been variously estimated at 13 to 17 trillion cubic feet—even with pipelines for Alaskan and Canadian imports. As of 1969, the United States had only 18 percent of the world's 1,550 trillion cubic feet of proven natural gas reserves while still producing well over half the world's supply of natural gas.

The implications of importing the 1985 differences in oil and gas are staggering—for our foreign policy, our balance of payments and domestic economy and ultimately for our way and quality of life. We are already seeing the first manifestations. This year's dollar figure for oil imports is expected to be about $6 billion.

One answer is to turn back to coal, but in new ways. Coal will not be a complete answer, and definitely will not be the final answer. But it is an answer with much potential for the next 30, 50, or even 100 or more years.

Under present technology coal burning can present environmental danger. But we have had the capability for some time now to transform our tremendous untapped coal reserves into environmentally sound fuels—clean burning gas and oil.

The idea of coal gasification is not new—indeed, as recently as the early 1940's, most of the gas being used in the United States was produced from coal. But this was relatively low-grade in terms of its energy qualities—400 to 500 BTU's—and with the advent of long distance pipelines which could bring in 1,000 BTU natural gas, coal gasification fell into decline. In addition to its inefficiency, in today's terms it was not, environmentally speaking, clean burning.

As early in 1946, the search was initiated at the Institute of Gas Technology in Chicago for an economical method of synthesizing gas of a quality equal to natural gas. The work proceeded slowly, but was given much impetus in 1964 following the signing of a contract between the Office of Coal Research and the IGT. This led to the HYGAS demonstration plant in Chicago which was dedicated in October of 1970. This plant recently achieved 53 hours of sustained operation.

The Office of Coal Research has funded other pilot plants to research and develop other coal gasifying technologies—in Rapid City, South Dakota; Tacoma, Washington; Princeton, New Jersey; and Homer City, Pennsylvania. At present, however, the HYGAS plant shows the most promise of early commercial application, perhaps by 1976 or 1977.

The HYGAS plant is for high-BTU coal gasification. It is aimed at producing gas for use in homes through the same pipelines which presently feed homes natural gas. With minimal time and funding low-BTU coal gasification could be utilized at electric power plants. Coal can also be converted into crude oil and then refined into oil's many other products. With a "fluidized bed" process it could be burned cleanly and used to power electric generating plants.

The implications of this work are staggering. Improved mining techniques, some of them also in the research stage, might make it environmentally feasible to recover about 2 trillion tons of our Nation's 3 trillion tons of coal. At a conversion rate of 2 barrels or more of synthetic oil per ton—a much better conversion rate than that expected per ton from oil shale—we would have over 4 trillion barrels of oil in the form of coal, or ten times the world's proven reserves. And if this coal were converted to pipeline quality gas, it would yield about 32,000 trillion cubic feet of synthetic gas. Our proven recoverable reserves of natural gas worldwide, as already mentioned, are about 1,550 trillion cubic feet.

These incredible prospects may be for naught if the funds and coordinated Federal policy for general energy research and development are not present. Industry can provide some of the funds, but to develop this potential in time the Federal Government must join in partnership with industry.

Various bills have already been introduced in the 93rd Congress on the subject of energy research and development—such as S. 357 introduced by Senators Magnuson, Hollings, and others, and S. 1283, Senator Jackson's mammoth energy R & D bill. Senator Jackson's bill would set up an overall energy research coordinating body and five quasi-governmental corporations, including a Coal Gasification Corporation and a Coal Liquefaction Corporation.

There is no telling when such a mammoth program, as proposed in the Jackson or Magnuson bills, might get underway, however, and in the meantime there is neither time nor excuse for delay.

In his recent energy message, the President cited coal "as our most abundant and least costly domestic source of energy," and urged that the "highest national priority be given to expanded development and utilization of our coal resources." He did not, however, propose an increase in funds for coal research over the modest 1974 budget figure of $51.3 million. This figure exceeds the 1973 budget figure for coal research by only $8.9 million. It is far below that which can usefully be

spent on coal research. Senator Bellmon put the question to OCR's Director, Dr. George Hill, when he appeared before this Subcommittee in March, as to whether, "considering the importance of energy to our Nation and the present energy crisis," OCR's budget was "sufficient to cope" with our energy problems. Dr. Hill replied that the OCR offered a "balanced program," but he went on to note policy determination.

Indeed, it is a policy determination, and I believe the Administration has set the wrong policy. Given the energy situation I have outlined, the OCR budget as submitted by the Administration is far out of line with our national energy priorities.

The budget for the Office of Coal Research can usefully be increased from the proposed $51.3 million to $103 million. We would allocate the increase to the following purposes:

Liquefaction of Coal, $23,850,000.

Acceleration of Low BTU Gasification Research, $11,925,000.

Acceleration of Fluidized Bed Combustion Technology, $3,975,000.

Combined Cycle Technology Research, $3,975,000.

Magneto Hydrodynamics (MHD) Research, $3,975,000.

Mining Extraction Technology Research, $3,000,000.

Despite the great promise of coal liquefaction, for example, this year's OCR budget reduces the amount available for coal liquefaction projects from $9.7 million to $9 million. The distinguished majority leader, Senator Mansfield, spoke earlier today of the need for more funds for MHD research. Dr. Hill in his March 16 testimony said that MHD "has great promise in the long run." The MHD budget request is at a "balanced" but too low figure of $3.75 million.

Dr. Hill also said the fluidized-bed boiler combustion technology "offers promise of permitting the burning of high sulfur coal without pollution in the shortest period of developmental time." The OCR budget, however, requests only $2.7 million in fiscal year 1974 for this technology. I know myself from discussions with scientists at Argonne National Laboratory that twice this amount can be utilized profitably.

While we expand the research on coal utilization, we must simultaneously develop mining technology. Some experts believe that there can be developed a satisfactory technique midway between the labor-demanding but hazardous and costly technique of deep mining and the environmentally dangerous technique of strip mining. The authority for such research and development has been in the Office of Coal Research, but it has never been adequately utilized. The incredibly small figure of $500,000 was requested for such research in this year's OCR budget. We have proposed that this figure be vastly expanded, to a total of $3.5 million. It is possible that shallow coal can be extracted from beneath the surface—in other words, without strip mining.

The figures involved in Senator Jackson's proposed bill are on the order of $1.5 billion over the next 7 to 10 years for research into coal gasification and liquefaction alone. If the Congress should decide later on that such an expanded approach is necessary, the programs ongoing within the Office of Coal Research can be incorporated. But the OCR research programs can be expanded now. The OCR has the administrative capacity and has numerous worthy applications awaiting funding. Our energy problems only worsen by the day. We have already waited far too long to begin the level of research necessary to utilize adequately our vast coal reserves. We ought now to redouble those efforts.

CUTBACKS URGED IN CONSUMPTION OF FUEL BY FEDERAL GOVERNMENT

Mr. DOMINICK. Mr. President, 1 week ago I joined several of my colleagues from this body in meeting with William Simon, Deputy Secretary of the Treasury, to discuss our "energy" crisis and in particular the need to insure adequate fuel supplies to our farmers. Mr. Simon assured us that a plan would be forthcoming before the week was out, and Thursday he revealed the proposals. Basically the plan calls for "voluntary" cooperation by the oil industry. Whether such a plan will work remains to be seen, and for my part I hope that it does.

I would remind my colleagues, however, of the need to insure adequate supplies to our farmers immediately. The farmer cannot adjust his schedule, for he has no control over it. When the time comes to plant or to harvest, it must be done. We all know that if crops are down this year, the immediate effects will range from increasing food prices to economic disaster for our farmers. Moreover, there could be a serious impact on our trade picture. In fiscal year 1973 agricultural exports will amount to $11 billion, or 15 percent of cash farm income. In fiscal year 1973 overall we face a trade deficit of almost $6 billion. Obviously, our agricultural sector has played a significant role in giving strength to our dollar.

I have on this floor previously urged that all of us join in seeking solutions to this "crisis." To that end, last week I wrote to Mr. Simon and Secretary of Defense Elliot L. Richardson concerning cutbacks in the consumption of fuel by the Federal Government and, more particularly, the Department of Defense. I ask unanimous consent to print in the RECORD copies of those letters and would commend suggestions such as these to my colleagues as appropriate responses in our fight against this "crisis."

There being no objection, the letters were ordered to be printed in the RECORD, as follows:

MAY 10, 1973.

Hon. ELLIOT L. RICHARDSON,
Secretary of Defense, Department of Defense, Washington, D.C.

DEAR MR. SECRETARY: The Department of Defense is the largest single consumer of petroleum products (POL) in the U.S. and the world. As such, your Department can do much to alleviate the fuel shortages being experienced now in certain parts of this country and anticipated on a much larger scale in the near future.

I urge your immediate consideration of a 10% reduction in POL consumption by the Department of Defense. This reduction should be achieved by an across-the-board application of the 10% figure to all functions of the Department except those *directly* related to national security. Reductions in travel, more efficient training exercises and energetic dissemination and enforcement of fuel conservation procedures are some of the means by which this reduction could be accomplished.

You are requested to provide me your comments on the feasibility of the 10% reduction and its effect on DOD functions at the earliest possible date. In addition, I would like to receive the following specific information:

Total POL consumed by DOD in FY '72 and estimated FY '73 total (the figures should indicate usage by each service and types of petroleum products used);

Amount of POL from U.S. supplies provided directly or indirectly to our allies; and

Amount of POL purchased from non-U.S. sources and identity of the countries in which it is obtained.

Mr. Secretary, at a time when the citizens of this country are being asked to conserve fuel, and in some cases being required to do so due to inadequate or non-existent supplies, I believe that the Defense Department, the largest single consumer, should take similar actions in order to help alleviate these real or imminent shortages. I am also requesting Deputy Treasury Secretary, William B. Simon, to consider similar reductions for all other Federal agencies.

Your immediate attention to this matter will be greatly appreciated by me and the people of this country.

Sincerely,

PETER H. DOMINICK,
U.S. Senator.

MAY 10, 1973.

Mr. WILLIAM E. SIMON,
Deputy Secretary of the Treasury, Department of the Treasury, Washington, D.C.

DEAR MR. SIMON: The "energy" crisis and solutions to it have occupied the attention of government officials, the press and, now, of our citizens for much of this year. We have heard from officials of the Administration and other interested observers on how the citizens of this country can aid. Our citizens have been told to drive slower, cut back on the use of air conditioners, and to perform other actions designed to conserve energy supplies. To date I have received no answer to the question of what action one of our biggest energy consumers is going to take, namely the agencies of the federal government.

I urge your immediate consideration of a 10% reduction in energy consumption by the federal government.

You are requested to provide me your comments on the feasibility of the 10% reduction and its effect on government functions. In addition, I would like to receive the following specific information:

The agency together with the amounts and types of energy it has consumed for its operations for FY '72 and estimated '73 total; and

A breakdown of the costs of such energy consumption.

Let me stress that I am not proposing any curtailment of any essential government function.

We in the government cannot be expected to escape the cutback needs while telling our citizens that they should cut back. All of us are affected and we should all participate in combating the present situation.

Further, I am enclosing for you a copy of my personal letter to Secretary of Defense Elliot Richardson requesting a response to my inquiry of cutting back by 10% Defense Department consumption.

A prompt answer to this proposed cutback will be appreciated not only by me but by all citizens of this country.

Sincerely,

PETER H. DOMINICK,
U.S. Senator.

NEED FOR MOBILE HOME SAFETY STANDARDS

Mr. GURNEY. Mr. President, on March 22, 1973, Senator BROCK introduced S. 1348, a bill to establish National Standards for the Construction of Mobile Homes. This is a most important piece of legislation, and I am proud to cosponsor it.

S. 1348 attacks the problem of mobile home safety by:

First, establishing a National Mobile Home Safety and Advisory Council;

Second, allowing the Secretary of HUD to establish appropriate mobile home safety standards;

Third, prohibiting the interstate distribution of mobile homes that do not comply with the safety standards;

Fourth, allowing and assisting the States to assume the enforcement responsibilities for mobile home standards.

Mobile homes are of ever-increasing importance in this country. Seven million people now live in mobile homes. Nationally there is a projected 10 percent increase in the number of mobile homes shipped; around 600,000 will be shipped this year. Ninety-five percent of all new single family homes sold in the United States in 1972 for $15,000 or less were mobile homes.

Florida has been more dramatically affected by the mobile home surge than any other State in the country. The Sunshine State leads the Nation in mobile home shipments. In 1971 alone Florida had a 30-percent increase in its mobile home shipments; importance of this legislation to the State of Florida cannot be over emphasized.

The rapid growth of the mobile home industry in the United States has far outstripped the capacity of present regulations and guidelines to cope with the increasingly large task of safeguarding the public. Nationally, the Department of Transportation and the Department of Housing and Urban Development are the two Federal agencies most directly involved in mobile home safety standards. The Department of Transportation confines its interest in safety to the dangers involved in transporting the mobile home on the interstate highway system. The Department of Housing and Urban Development, through its FHA loans, is concerned with safety standards of a broader nature. HUD requires that FHA insured homes must be built according to the standards of the American National Standards Institute. However, self-certification by the manufacturers is the only method HUD has to verify compliance by the builders. In fact, HUD has no guarantee that its standards are observed.

Unfortunately, in the face of inadequate national standards, State standards are not much better. Approximately 24 States have standards of mobile home safety ranging from weak to nonexistent. I am proud to say, however, that the State of Florida has shown a considerable amount of initiative in this area. Florida was the first State to adopt the standards of the American National Standards Institute for Mobile Home Construction. Florida even has an inspection system, modest as it is, to enforce its standards. Unfortunately, even with the best of intentions, it is impossible to go it alone in this important area. Today it is simply beyond the ability of State officials to inspect and regulate the massive inflow of out-of-State mobile homes into the State of Florida.

One important aspect of this legislation, the need for improved anchorage standards, was dramatized by damage in the wake of Hurricane Agnes. In the State of Florida alone eight people died in mobile homes during Hurricane Agnes; 177 mobile homes were totally destroyed and another 381 required extensive renovation. Hundreds of human lives were disrupted. Improved anchorage standards can be a matter of life and death for mobile homeowners.

Another danger to mobile homeowners, fire, at least is clear even to the casual observer. Some States have attempted modest safety measures by requiring wider windows so that a mobile home dweller may escape a fire by leaping out the window. Ten minutes, or less, that is the time public safety officials estimate it would take for some mobile homes to be totally consumed by flames. Insurance companies translate this danger from fire into a dollars-and-cents figure. Fire loss is estimated by insurance officials at 4½ times as much in a mobile home as in a conventional dwelling. The rates for fire insurance are also proportionately higher than the same fire insurance for a conventional dwelling.

The problem is clear. Vast numbers of mobile homes are being bought and lived in by millions of Americans. These homes are subject to almost no control for quality or safety. The honest businessman is faced by his less scrupulous competitor who makes a shoddy product in a pretty package and is nowhere to be found when the floor caves in. The consumer has no way to be sure of the quality home he is buying.

Both the consumer and the businessman are caught in the same dilemma. They are caught in a maze of hazy unenforced and unenforceable local safety rules, where any rules at all exist, which do not protect either group from the fly-by-night mobile home company.

People who can afford it the least suffer the most from the loss of their mobile homes. The two groups who make up the largest users of mobile homes are the retirees and the young marrieds.

Both the young couples and the retirees have one thing in common—they cannot afford the financial loss caused by the collapse of their mobile homes. Pause for a moment to consider the condition of an elderly couple who have saved for a lifetime and are now finally starting to enjoy the leisure time they have earned with a life of honest toil. What happens to them when the floor caves in or the roof blows off? With their home gone some of these people will need State and Federal assistance merely to survive.

A clear national standard that can be understood by all and observed by all is the only solution. With a uniform set of safety standards, mobile home living will not only be safer but high insurance rates will both be reduced.

This is an important bill and deserves the earliest possible congressional action.

PERILS FACING PUBLIC TV

Mr. JAVITS. Mr. President, I have long believed that public TV—with its reliance on a partnership of private sector and Federal funding—had a unique potential to serve as a free-flowing forum of ideas and entertainment for audiences that are smaller than those at which the commercial networks aim.

If this goal is to be achieved, the local public television stations, represented by the Public Broadcasting Service, should retain independence with responsibility for their programing. They should not be dominated by the Corporation for Broadcasting which, through the power of the purse, can influence programing.

The controversy between the Public Broadcasting Service and the Corporation for Public Broadcasting regarding consultation versus domination and the inherent danger of the latter rather than the former is thoughtfully set forth in a recent Buffalo Evening News editorial entitled "Perils Facing Public TV." I commend it to the attention of my colleagues and ask unanimous consent that the editorial be printed in the RECORD.

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

PERILS FACING PUBLIC TV

The apparent role of the White House in the continuing controversy over who will control the programming on public television is at least very confusing, if not downright dismaying.

For a while it looked as though a compromise had been worked out between the Public Broadcasting Service, which represents 233 public TV stations around the country, and the federal Corporation for Public Broadcasting, a bipartisan agency established by Congress in 1967 to funnel government money into public broadcasting and, recently, to make some decisions on programming.

The compromise was championed by Thomas Curtis, an appointee of President Nixon last year. Then, in quick succession, the compromise was rejected by the CPB board, and Mr. Curtis, a Republican ex-congressman from Missouri, resigned and charged that White House lobbyists had "tampered" with the board's independence.

The compromise itself, moreover, would have allowed the local stations through the PBS to retain considerable control over program decisions, in consultation with but not subservience to the federal corporation. This seems not too unreasonable to us, and would not seem to contradict what the White House has professed to want: that is, more local responsibility and diversity in the views presented on both commercial and public television.

Obviously, the failure of the compromise raises practical problems, such as uncertainty in planning programs for next fall's public television schedule.

But more fundamental questions are also involved here. We do not believe that any single national agency should have absolute control over what programs are shown on public television. That could too easily lead to a single political "line" or ideological bias in public affairs programs. Yet surely it is possible for public television to continue treating controversial issues, presenting different sides fairly.

The federal CPB should be as insulated from political and ideological pressures as possible. But probably the best guarantee of fair treatment of public issues lies in building additional diversity into the governing system. Individual public broadcasters around the country ought to share in major ways in programming decisions, and a diversity of financial resources needs to be cultivated to help pay the bills. Public broadcasting should never come to rely on federal funds to the exclusion of individual and corporate sponsors, private foundations or, particularly, money raised through appeals to the general public.

Admittedly, these are general principles. But if agreement on them is generally shared, it ought to be possible to find specifics of acceptable compromise. If agreement on them isn't shared, then public television is in very real trouble.

SOCIAL SECURITY BENEFITS AS AFFECTING VETERANS' ADMINISTRATION PENSION PAYMENTS

Mr. BROOKE. Mr. President, the end of the war in Vietnam has focused renewed attention on the problems facing, not only the returning Vietnam veterans, but veterans of all wars. The Nation owes these men a debt which should always be in our thoughts. And although this debt cannot be adequately expressed in monetary terms, sufficient funding for the various veteran programs is an essential beginning.

In Massachusetts, the problems which confront these men and women are particularly acute. Specifically, there is alarm over recent reductions in veterans' benefits as a by-product of the recent 20 percent increase in social security benefits.

By unanimous vote, the Massachusetts House of Representatives and the Massachusetts State Senate have urged the Congress to plug the leak in veterans' benefits.

It is my hope that the members of the Veterans' Affairs Committee give these resolutions and the sentiments they express the most careful study as they consider S. 275 and similar legislation.

Mr. President, I ask unanimous consent that these resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS

Memorializing the Congress of the United States to enact legislation that would preclude social security benefits from affecting Veterans Administration pension payments

Whereas, Many veterans are receiving benefits under the Social Security Act and Veterans Administration pensions; and

Whereas, It would be unfair and unjust to allow any benefits under the Social Security Act to decrease or eliminate the Veterans Administration pensions to veterans receiving both; now, therefore, be it

Resolved, That the General Court of Massachusetts respectfully urges the Congress of the United States to enact legislation to preclude any change in the Social Security Act from affecting any Veterans Administration pension to veterans receiving both; and be it further

Resolved, That a copy of these resolutions be transmitted forthwith by the Secretary of the Commonwealth to the President of the United States, to the presiding officer of each branch of Congress and to members thereof from the Commonwealth.

House of Representatives, adopted April 17, 1973.

Senate, adopted in concurrence, April 25, 1973.

THE 25TH ANNIVERSARY OF ISRAEL STATEHOOD

Mr. WILLIAMS. Mr. President, the festive and joyous celebration in Israel on May 7, marking the 25th anniversary of the establishing of statehood, was yet another example of the deep pride and determination of the Israeli people.

These citizens, joined in spirit by Jewish and non-Jewish friends around the world, reiterated the importance of Israel in her constant struggle to remain a free and democratic state.

The success of this tiny nation against political and military aggression in only the first-quarter century of existence is truly remarkable and merits the praise and encouragement of the free world.

It is, as we all know, success borne of the sacrifice in sweat and blood of thousands of determined people.

It is a success that has been made possible in large part by the steadfast support of individual Americans, and of the U.S. Government.

The celebrating of the 25th anniversary is a fitting time to renew that commitment, both as individuals and as a nation. I wish to take this time to reaffirm my support of Israel, both as an American citizen and a Member of the U.S. Senate.

For all of us who have believed in the potential of Israel, this is a deeply satisfying time.

The tiny state that some said could never exist, has emerged as a mature nation. The citizens of Israel can look back on the startling progress they achieved in only 25 years.

But Israel, and her friends throughout the world, cannot afford the luxury of complacency. Her old enemies in the Middle East and the Soviet Union continue to watch for signs of weakness and hope to dam the flow of human resources which have helped make Israel productive. The many threats to her very existence remain as real as ever, but the determination to keep Israel free is still strong and persistent.

Mr. President, we cannot allow the United States to back away from support for Israel. Our assistance in the form of aid and supplies is very much needed in this struggle to remain free.

Therefore, on this proud occasion of the 25th anniversary of Israeli statehood, I extend my sincerest hopes and prayers for a peaceful and prosperous future for the people of Israel.

TIMBER EXPORT MANAGEMENT ACT OF 1973

Mr. GURNEY. Mr. President, I have submitted to the Senate Banking, Housing and Urban Affairs Committee, an amendment to my bill, S. 1507, the Timber Export Management Act of 1973, which I introduced on April 10, 1973.

In general, that amendment provides that the Secretary of Commerce shall in December of 1973, when he calculates export restrictions for 1974, restrict those exports to 22 percent of the level of imports he believes will be needed in 1974 to supplement domestic supply. S. 1507 provides he shall use 1973 import levels in such calculations. Because of the dynamic characteristics of the softwood industry, my export restriction formula should use estimated imports needed, rather than import levels of a past year.

I have also submitted to the committee background information which was helpful to me in drafting the bill and which I hope will be of assistance to others in understanding the bill's provisions.

Mr. President, I ask unanimous consent that a copy of my suggested amendment to S. 1507, and the background information which I have submitted to the committee, be printed in the RECORD.

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

S. 1507—JUSTIFICATIONS FOR ITS PROVISIONS

OVERVIEW

The bill restricts exports of softwood logs and timber from Federal and private lands to a percentage of imports of such softwood. The first set of restrictions, for the balance of 1973 and all of 1974, serve to retain within this country an amount of softwood approximately equal to the amount we previously have had to import to supplement domestic supply *just to meet our own domestic needs.* This amount of softwood also approximates the amount of unused milling capacity which can reasonably be expected to mill softwood previously exported. (Calculations are set forth at the conclusion of this document).

Testimony, by industry members and expert observers, before the Cost of Living Council indicated that there is additional unused milling capacity in the northwestern United States. The West Coast Lumber Inspection Bureau recently announced that *its members could gear up milling capacity sufficient to mill an additional 3 million board feet—approximately the same amount S. 1507 would add to the domestic market.*

For years beyond 1974, S. 1507 provides for various percentages of export restrictions to be applied during six month periods. This flexibility is designed to permit the export restrictions to be finetuned as the softwood market returns to equilibrium levels.

Two explicit provisions in the bill provide a means by which the export restrictions shall be suspended and therefore provide for a return to unfettered free market forces at the earliest possible date. Restrictions shall be suspended if (1) foreign demand for softwood no longer threatens to distort domestic market prices or, (2) if the domestic softwood price in fact *averages,* over a six month period, an equilibrium price. Congress, in either instance, may reject any suspension of export restrictions.

These two provisions are important. The first is an incentive to Japan, urging her to follow through on statements she has made to us that she will seek alternative sources of supply. The second provision takes the industry's most recent, generally recognized equilibrium price for softwood (1967) and adds 15% to account for general inflation experienced by the economy as a whole.

BASIC PREMISES OF S. 1507

1. The lumber crisis is primarily a softwood crisis. This wood has the greatest impact of all woods upon our economy because of its extensive use in construction. The use of Federal intervention to solve the lumber crisis should be as limited as possible to permit the government to withdraw its intervention as easily as possible. Therefore, softwood should be the target of legislative proposals.

2. We are a net importer of softwood. Regardless of economic conditions, the United States must import softwood to supplement domestic supply. Import levels, therefore, are a barometer of the intensity of domestic demand for softwood.

3. In general, we sell softwood *logs* to Japan and purchase higher priced *lumber* from Canada. The effect is a net dollar loss to Canada. We have continued these transactions even though we do not have enough softwood *on the market* to meet domestic needs.

4. The ultimate solution to the lumber crisis involves a solution of the box car shortage, increasing the resources of the Forest Service to permit better utilization of forest lands and increases in the sale of logs from Federal lands. These solutions require time to implement. However, several factors dictate the need for immediate, temporary action to restore equilibrium and lower prices to the softwood industry:

(a) *Peaked prices.* Softwood prices appear to have peaked. However, several market

forces now at work will keep those prices at high levels and inhibit the return of lower, equilibrium prices. The most important of these is that Japan's demand for our softwood will continue; she faces her own housing boom and lumber shortage. Testimony to both Congress and the Cost of Living Council indicates that Japan's drain on our supply and her willingness to pay higher prices than domestic purchasers have in part inflated domestic softwood prices. Japan has indicated to the U.S. that she will attempt to obtain alternative sources of supply. We know she can do so from Canada, the USSR and from Southeast Asia. (In Southeast Asia, certain hardwoods, such as lauan, can be used for softwood purposes; lauan is a substitute for cedar, and is frequently used for plywood construction). But Japan has not moved with any dispatch in this regard; in fact, she has indicated in the past that alternative sources of supply would be considered but she has continued to *increase* her purchases of our softwood. Therefore, S. 1507 creates an incentive for Japan. If she follows through and finds alternative sources of supply, and her demand pressures no longer threaten to distort our domestic prices, the export restrictions can be lifted immediately. If she does not, however, the export restrictions will temporarily prevent Japan from exerting excessive demand pressures on our softwood supplies and prevent her willingness to pay high prices from escalating domestic softwood prices.

(b) *Protective positioning.* The longer we delay in taking action the greater the opportunity there will be for members of the softwood industry to expedite transactions in anticipation of lower prices in the future, or otherwise position themselves to take advantage of changing market conditions. Such protective positioning may further distort market factors of supply and demand and make a return to equilibrium levels even more difficult and more time consuming.

(c) *The prices of delay* will be paid by domestic consumers of softwood, primarily new home buyers.

5. While the required short term solution of the lumber crisis is a restriction of exports, such restrictions must be *temporary* and *limited in scope.* Export controls devoid of a mandated suspension of controls when equilibrium returns to the market will inevitably distort normal supply and demand forces. They may also prompt retaliation by other countries in the course of their international trade. *Partial* restrictions with *explicit* procedures for their termination will not cause Japan severe harm and *will demonstrate that our goal is market equilibrium and not a governmentally induced trade advantage.*

6. Increasing allowable cuts of softwood from Federal lands, or prohibiting or restricting exports of softwood from Federal lands, are not sufficient remedies. Allowable cuts have never been achieved. In any event, we may not know until too late whether or not cuts actually made will make their way *onto the market.* There currently is much timber cut which has simply not been sold because of lack of resources, administrative difficulties, insufficient access to roads and other deficiencies in our ability to move the softwood onto the market. Some 10 billion board feet are presently left to rot unharvested because of inefficiencies in our timber management and harvesting system. Instead of deciding to simply cut more of our precious timber resources we should (1) stop solving Japan's lumber shortage and housing boom at the expense of our own lumber and housing needs; (2) determine, for the long run, to increase efficiencies in our marketing and harvesting system.

Restricting or eliminating exports from Federal lands will not be a complete solution. In passing the so-called Morse Amendment to the Export Administration Act of 1969, an amendment which limited exports from Federal lands, the Congress directed that regulations be established to prevent the practice of substitution, whereby owners of private forests increased exports of timber from their own lands and purchased Federal timber to meet domestic demand. No regulations were implemented. It now appears that they cannot be effectively implemented as a practical matter. If such regulations were needed when reports from Federal lands were *limited,* they would become crucial if exports from Federal lands were prohibited. Massive evasions of the restrictions would otherwise result. Therefore, effective, timely export limitations will be effective only to the extent that they apply to timber on Federal *as well as* private lands.

CALCULATIONS OF EXPORT RESTRICTIONS IN S. 1507

For 1973 export restrictions the calculations are as follows:

Total softwood imports

1971	7.3
1972	9.0
Total	16.3
Average	8.15

Total softwood exports

1971	3.7
1972	5.0
Total	8.7
Average	4.35

Therefore, 22% of 8.15=1.79.

On an annualized basis, 1973 exports would be restricted to approximately 1.8 billion board feet. This would retain 2.55 billion board feet within the domestic market (4.35 minus 1.79). However, passage of S. 1507 late in 1973 means that for *each month* left in the year at the time of passage export restrictions would be 1/12 of 1.79 billion board feet, or 147.4 million board feet.

For 1974 the Secretary will estimate, in December of 1973, the volume of imports which will be needed to supplement domestic supply. He will restrict exports to 22% of that estimated import level.

Assuming that 1974 exports are no greater than those for *1972* (which is not likely) 22% of 9 billion board feet is approximately 1.98. Rounding that to 2 billion, 1974 exports under S. 1507, would equal 2 billion board feet, with the balance, *3 billion board feet, retained for the domestic market.*

Again, the most recent estimate of unused milling capacity in the northwestern United States is 3 billion board feet (see page 1 *supra*).

While 1974 imports will probably not be the same as those in 1972, it is a reasonable conclusion that, under S. 1507, softwood formerly exported can in fact be milled by current milling capacity in place in the northwestern United States.

Respectfully submitted.

EDWARD J. GURNEY,
U.S. Senator.

AMENDMENT

On page 5, strike lines 5 thru 8 and insert in lieu thereof the following:

"(1) For calendar year 1974, the Secretary shall, not later than December 1, 1973, estimate the level of imports of softwood which will be needed in 1974, when added to domestic production, to meet domestic softwood demand during 1974, and shall limit 1974 exports of softwood to 22 per centum of such estimated level of imports."

SKYLAB WORKSHOP

Mr. MOSS. Mr. President, members of the Senate are aware from press reports last night and this morning that the Skylab workshop launched yesterday has serious difficulties. These difficulties, centered around failure of two large solar cell panels to deploy in orbit and temperature problems in the laboratory itself, threaten to curtail or sharply reduce the returns of this important flight.

NASA administrators and flight control personnel are assessing the effects of these problems on the flight plan, and reviewing alternatives available to obtain greatest benefits from the mission. As my colleagues know, the first manned launch, scheduled for today, has been tentatively rescheduled for launch this Sunday.

The workshop carries numerous new experimental equipment, including earth resources and solar astronomy instruments. We all hope that in the days ahead NASA's experts will succeed in devising ways to maximize the use of the workshop.

I ask unanimous consent to include in the RECORD a brief summary of the experiments planned for the workshop.

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

THE SKYLAB EXPERIMENT PROGRAM

The Skylab experiments will capitalize on the unique opportunities available in Earth orbit. The Earth resources and solar astronomy observations utilize the vantage point and disturbance free environment of orbital space for the investigator to make observations and measurements not possible from terrestrial or airborne observatories. The technology and operations experiments rely on special and unique properties of the space environment to examine phenomena, materials, processes and techniques. The medical investigations during the long 56 day missions will determine man's adaptability to changes in his normal environment.

Another scientific dimension of the Skylab Experiment Program is found in the worldwide solar observations program. This will involve coordinating observations from the ground with those from the Skylab in orbit. Similarly there is a very broad program of data acquisition from ground stations, aircraft and the Earth Resources Technology Satellite for correlation with the information gathered by the Skylab Earth Resources Experiment Package sensors.

The importance of the Skylab Research Program is highlighted in the following descriptions:

EARTH RESOURCES

Remote Earth observations from space have the potential of becoming a fundamental technique in effective use and conservation of natural resources, and in better understanding and managing interacting influences between man and his natural environment.

Photography from Earth orbital spacecraft has proven valuable for mapping geographic and weather features over large areas of the Earth. Systematic application of other remote sensing techniques may extend the usefulness of this capability to mapping of Earth resources and land uses. Resources amenable to this type of study include identification of crops and ground cover, vegetation vigor, soil types, snow pack and water storage, surface or near-surface mineral deposits, sea surface temperature and roughness, the location and migration of fish stock, etc.

Development of remote sensing techniques in extended spectral ranges at altitudes up to 60,000 feet is already a part of the NASA Aircraft Program. Aerial reconnaissance of ground truth sites is being conducted to test measuring techniques, to validate interpretive techniques and to ascertain the dependability of recognizable spectral signa-

tures. Development has reached the point where remote sensing has been used operationally to assist in pinpointing forest fires through dense smoke cover and in mapping corn blight damage.

Space tests of remote sensing techniques have also been conducted during the Mercury, Gemini and Apollo programs with increasing degrees of sophistication. Several thousand high quality photographs obtained have been effectively used in many disciplines. Apollo missions added haze filters, demonstrated photography in the visible and infrared wavelengths, overlap photography for stero viewing, and photography of ground test sites.

The Skylab Earth Resources Experiments Package (EREP) is the most recent step in this important aspect of understanding and managing the Earth/man relationship. EREP will improve on the Apollo visible light and infrared photography and will, in addition, include electronic infrared spectrography and microwave radar and radiometry surveys.

EREP photographic equipment and techniques will greatly improve resolution of Earth resources phenomena by simultaneous exposures using six matched cameras and by precise photometry that can provide more accurate light intensity levels in each survey photograph. The infrared spectrography survey will operate in wavelengths not recordable on photographic film and will provide data for plotting recognizable spectral signatures of the observed phenomena. The EREP microwave radar and radiometry equipment has a low sensitivity to atmospheric moisture and will provide an all-weather source of information on surface moisture, temperature and vegetation distribution. Microwave radiometry over the oceans will provide information on wind and sea conditions on a global scale.

SOLAR OBSERVATIONS

A systematic study of the Earth and its environment would not be complete without detailed study of the Sun. All life on Earth is dependent on the radiation from the Sun received through the atmosphere on land and sea. Variations in the amount and character of the solar radiation reaching the Earth suggests influences that solar cycles have on weather, communications and the terrestrial environment in general. The Skylab experiment program has a major segment devoted to solar studies.

Skylab, and in particular the Apollo Telescope Mount (ATM), will carry a 2,000 pound scientific payload of eight instruments specifically tailored to an observation program of the Sun. It constitutes a significant step into the future by combining capabilities (1) to conduct astronomical research from space removed from the optical and mechanical disturbances evident on Earth, and (2) to have man operate complex equipment with the attendant flexibility and adaptability of the man-machine design. This combination will permit an astronaut trained in the science of astronomy to enhance the achievements possible with large scientific instruments in space.

The ATM instruments are larger and more sensitive than any previously flown in space. Solar astronomers, in this country and abroad, will utilize these instruments along with ground-based instruments for an all-out national and international effort to study the Sun in 1973. All ATM instruments will observe the same spot on the Sun simultaneously. The astronaut will select the most interesting region on the Sun by looking at television displays of the Sun as it can be seen only from space—in ultraviolet light and in X-rays. The scientists conducting the experiments have jointly identified the most important problems that can be addressed with ATM.

PHYSICAL SCIENCES

Earth is a spacecraft in orbit about the Sun. It is surrounded by a near-Earth environment, the atmosphere, which is crucial to the maintenance of life on Earth. The atmosphere in turn is surrounded by a near-vacuum called space which is environmentally hostile to life. Increased understanding of the balance between the hostility of space and the atmospheric protection of Earth is the purpose of the physical science experiments on Skylab.

In addition to an extensive solar study, Skylab will carry physical science experiments to investigate (1) the contribution of deep space (beyond our solar system) to Earth's environment, (2) the characteristics of the Earth's upper atmosphere, and (3) the content of the medium directly surrounding Skylab.

LIFE SCIENCES

The Skylab biomedical program is a study of normal, healthy men and their reactions in an environment where the effects of gravity, one of Earth's key environments, has been nullified. From this study, a great deal can be learned about gravity's importance to man's physiological functions.

Previous studies of man exposed to zero gravity observed a consistent loss of body fluid; a small loss in bone calcium and muscle mass; and a reduction in the ability of blood vessels to actively distribute blood to the various parts of the body following return to an Earth gravity condition. These effects disappeared a few days after returning to Earth and so far have shown no consistent relationship with the time spent in zero gravity. Similar effects have been observed in individuals confined to prolonged bed rest on Earth.

Skylab will allow an evaluation of these and other phenomena under prolonged zero gravity conditions using more rigorous evaluation techniques. Typically the human biomedical experiment program consists of investigations such as the effect of gravity on nutritional requirements, man's metabolic effectiveness in doing mechanical work, the effects of exposure to zero gravity on the heart and blood vessels, the role of gravity on man's psychomotor efficiency in the performance of useful tasks, and the effect of gravity on the senses governing balance, orientations and motion.

TECHNOLOGY AND OPERATIONS EXPERIMENTS

These experiments are related to improving manned operations in space and space technology.

The manned operation of Skylab-A will provide information on the suitability of the living conditions and crew accommodations. The crews will evaluate the size, shape, ease of use, comfort, and appearance of the spacecraft interior and equipment. This information base will provide the "architectural concepts" of future manned spacecraft. A valuable part of these observations will be the crew's subjective likes and dislikes. An example of this, is the sense of roominess that weightlessness appears to induce, with its capability of multidirectional orientation.

Zero gravity introduces new approaches to astronaut mobility. Within the spacecraft, movement from one area to another can be achieved by floating. Outside the spacecraft the same form of movement is possible, but, inconvenient, and without a restraining tether is hazardous. Movement along the outside of the spacecraft is possible by using handholds, but movement from one spacecraft to another requires more sophisticated maneuvering equipment which will be tested within the large experiment compartment in the workshop.

Closely associated with the freedom of travel afforded by zero gravity is the sensitivity of the orbiting spacecraft to disturbances caused by crew motion inside it. Skylab experiments will evaluate the magnitude of this effect.

Manufacturing techniques not possible on Earth may be possible in zero gravity. The casting of spheres, growth of crystal structures and organisms, development of foamed high strength materials are some of the space manufacturing technology concepts to be studied in Skylab. These experiments may lead to practical uses of space for processing a variety of materials.

At Skylab's orbital altitude, the radiation environment differs greatly from that on Earth. The radiation approaching Earth is captured by Earth's magnetic field and forms belts whose inner surfaces are some 250 to 300 miles above Earth. These belts are known as the Van Allen Belts. Over one part of the Earth's surface traversed by Skylab (the South Atlantic), this belt dips low enough for Skylab to pass through. The radiation levels in this South Atlantic Anomaly will be measured and the cumulative effects determined.

DOMESTIC PRIORITIES BEFORE AID TO NORTH VIETNAM

Mr. JAVITS. Mr. President, I ask unanimous consent that a resolution adopted by the New York State County Executives Association and a news release in connection with a proposed aid agreement with North Vietnam be printed in the RECORD.

There being no objection, the resolution and release were ordered to be printed in the RECORD, as follows:

RESOLUTION ADOPTED BY NEW YORK STATE COUNTY EXECUTIVES ASSOCIATION

Whereas, if the President of the United States feels it is appropriate and necessary to give North Vietnam $2.5 billion in aid in accordance with the peace agreement,

Now, therefore, be it resolved, that the New York State County Executives Association, representing 80 per cent of the state's residents living outside New York City, believes that such an agreement should not be carried out at the expense of state and local governments,

That, the County Executives support the President's call for special revenue sharing to consolidate the large number of categoric federal-state grant programs into block grants for broad functions,

That, the County Executives are concerned that the Administration's special revenue sharing proposals will provide less money to the point of performance—to states, counties and local units of government—than did the categoric grants,

That, the County Executives feel that in light of the federal money problem, some modest reduction in aid would be acceptable and understandable. However, the County Executives are not prepared to accept a 25 to 33 per cent cut in federal aid just to obtain the freedom of action that special revenue sharing would provide. If this be the case, then the County Executives would prefer to continue the present categoric system and work for change within that system so that state, county and local units of government can better meet the needs of their constituents,

And, lastly, that the County Executives feel that any change from the categoric to a special revenue sharing system must be phased in and provisions made for the hiatus so that local programs do not suffer.

NEWS RELEASE BY NEW YORK STATE COUNTY EXECUTIVES ASSOCIATION

The New York State County Executives Association today asked President Nixon for a commitment that the $2.5 billion aid agreement with North Vietnam will not be carried out at the expense of state and local governments.

Nassau County Executive Ralph G. Caso, association president, said the county executives, who represent 80 per cent of the state's population outside New York City, want assurances that all domestic priorities will be met first.

"We believe that this country's problems

of air pollution, water pollution, mass transportation, narcotics control, law enforcement, solid waste disposal and tax relief deserve first attention," Caso asserted. "We also should give priority to the returning veterans who are looking for jobs and education to earn a living.

"Any massive outlay of money to a foreign enemy country will be difficult to explain if we here at home are forced to accept cutbacks in aid for urgently needed programs," he added.

The county executives also expressed concern that the Administration's special revenue sharing proposals will provide less money to states, counties and other local units of government than the present categorical grant system.

"We are not prepared to accept a 25 to 33 per cent cut in federal aid just to obtain the freedom of action that special revenue sharing would provide," Caso said. "If this is the case, than we would prefer to continue the categoric system and work for change within that system so that we can better meet the needs of our constituents.

"We support the President's special revenue sharing proposal provided it does not force us to absorb drastic aid cutbacks and that provisions are made to phase in the new system so that local programs do not suffer in the transition period," he concluded.

The New York State County Executives Association today asked President Nixon for a commitment that the $2.5 billion aid agreement with North Vietnam will not be carried out at the expense of state and local governments.

OVERSEAS TROOPS: MISSION IMPROBABLE

Mr. PROXMIRE. Mr. President, the May 1973 issue of Sane World contains a particularly well thought out article on the rationale behind the $12 billion yearly commitment in support of U.S. troops overseas. The author is a retired lieutenant colonel who has served as a staff member of the Joint Chiefs of Staff and has won the Presidential Legion of Merit. He is the author of "The Death of the Army: A Pre-Mortum."

So much has been written about U.S. troops in Europe that often the broad perspective is missed. Colonel King restores this balance by addressing the threat U.S. troops face and comparing the combat ready status of those troops. It does not come as a surprise that most of our troops in Europe are serving in noncombat headquarters and support roles but it does force consideration of their primary role: conventional against nuclear.

I understand that this article is part of a longer study soon to be released by Colonel King. If the quality of this initial analysis is a reflection of the final product, it will be a significant contribution to the debate on U.S. commitments to Europe.

Mr. President, I ask unanimous consent that Colonel King's article be printed in the RECORD.

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

[From Sane World, May 1973]

OVERSEAS TROOPS: MISSION IMPROBABLE

(By Lt. Col. Edward King (U.S. Army, ret.))

Fiscal year 1970 the U.S. spent $12 billion to support our troops deployed overseas—in addition to the high costs of our forces in Indo-China. In FY 1973 it still cost the people of the U.S. a total of $30 billion to maintain troops, bases, and facilities abroad.

The rationale behind these overseas deployments of our forces supposedly has its origins in the basic U.S. national security objectives of (1) preserving the U.S. as a free and independent nation, to safeguard its fundamental institutions and values, and to protect its people; (2) contributing to the security of other nations with which we have treaties or whose security significantly impacts on our security. It is difficult, however, to reconcile the presence of our forces and bases in Ethiopia, Morocco and Iran with this basic security objective. Yet this objective is used to justify the military concept known as "forward deployments."

The Department of Defense has postulated the reasons for forward deployments as:

Helping the U.S. deter aggression by demonstrating to potential enemies and our allies the U.S. resolve to honor its commitments;

Enabling the U.S. to assist our allies in collective defense; and

Providing the President with the flexibility necessary in responding promptly to contingencies.

The Department of Defense has said that in determining the overseas deployment of our forces its considers the threat, the military requirements of the area, costs and political considerations.

319,000 IN EUROPE

Yet a close analysis of the principal U.S. troop deployments in FY 1974 does not reveal that these considerations have been adequately weighed. The largest deployment of U.S. forces is in NATO/Europe. These force and equipment levels committed in Europe justify the major part of the FY 1974 defense budget outlays. There are currently 319,000 military (accompanied by 225,000 military-sponsored dependents) stationed in Europe. The number of military personnel stationed there is a determination made among the Secretary of Defense, the Joint Chiefs of Staff and the National Security Council. The Congress has not made a determination on the size of this force since it approved sending five divisions to Europe in 1951.

This is a larger force level than the U.S. maintained in Europe immediately prior to the 1962 Berlin buildup (as of June, 1961, there were 211,623 military personnel in Europe). Despite the reduction in the scope of the Soviet threat to Europe brought about by Sino-Soviet hostility, detente in Europe, a Berlin agreement, the SALT agreement, and increased trade between East and West, the U.S. is maintaining more rather than fewer military personnel permanently stationed in Europe.

Despite the reduced threat in Europe during the past decade, military requirements there have not increased, but military manpower levels have increased. The costs of maintaining these increased U.S. forces have steadily climbed from $12 billion in FY 1971 to $17 billion in FY 1973. The dollar has been twice devalued while U.S. troop levels in Europe were increasing. These troop levels contributed to a balance of payments outflow of $2.2 billion in FY 1971 and this has grown to roughly $5 billion in FY 1973.

WHAT IS THE "THREAT"?

What is the "Soviet threat" that our 319,000 U.S. military personnel deployed in Europe must encounter? The Department of Defense has stated the "threat" in exactly the same words for the past four fiscal years:

"While we do not consider aggression by the USSR likely in the present political climate, the fact remains that the Soviets have a vital interest in preserving the status quo in Central Europe and in retaining their hold on Eastern Europe. A crisis that could lead to a conflict could arise if the political situation substantially changed in a way that threatened the USSR or its hegemony over Eastern Europe, or if a Soviet government saw opportunities for other ways to apply critical pressures on the cohesion of the Alliance. Such a crisis could escalate to hostilities."

There is a great deal of vague supposition contained in the wording of this "threat." But the American people have had to pay a total of $55 billion over the past four years to maintain U.S. forces to defend against it.

How can such a nebulous threat justify the deployment of 198,600 ground troops (out of the NATO total of 319,000) permanently stationed in Central Europe? Even if there were a likely Soviet threat, how many of these deployed army troops would fight to counter it? The Department of Defense states in its military manpower report for FY 1974 that U.S. land forces in Europe will continue at their FY 1973 level. A comparison of the land force levels published in the FY 1973 Military Manpower Report and FY 1974 Report reveals both omissions and contradictions. For example, page 35 of the Department of Defense FY 1974 Military Manpower Report states that, of the 198,600-man land force in Europe, a total of 116,100 men will be in combat units. This is factual only if combat support and direct support assignments are accepted as combat-related.

LESS THAN FORTHRIGHT

The Department of Defense is being less than forthright in claiming that personnel in combat units are performing combat-related duties.

A more realistic appraisal can be made by using the most favorable Army combat-to-support ratio to measure the number of unit personnel performing combat duties. The ratio of the number of Army personnel in Europe assigned to combat duties and support duties is as follows:

	Fiscal year 1973	Combat [1]	Support
4⅓ divisions	[2] 64,736	27,210	37,526
Division support	89,145	37,440	51,705
Berlin brigade	3,860	1,621	2,239
Missile forces	21,218	8,912	12,306
Strategic intelligence and security	32	----------	32
Other service support	801	----------	801
DOD/joint activities	726	----------	726
Free world support	294	----------	294
General support forces	2,901	----------	2,901
Other commands/agencies	14,678	----------	14,678
	198,391	75,783	123,208

	Fiscal year 1974	Combat [3]	Support [3]
4⅓ divisions	[2] 65,300	27,426	37,874
2 armored car regiments	6,100	2,562	3,538
Berlin brigade	3,900	1,638	2,262
Other combat units [3]	17,900	7,518	10,382
Missile forces [4]	22,900	9,618	13,282
Units supporting divisions	65,500	27,510	37,990
Strategic communications, intelligence and security	10,900	----------	10,900
DOD/joint activities, free world and other services support and others	6,100	----------	6,100
	198,600	76,272	122,382

These figures show that, using the Army's most favorable divisional combat-to-support ratio, there are over 46,000 more Army support than combat troops in Central Europe. If the less favorable percentage of the number of any personnel assigned to combat duties is applied, the figures for FY 1974 change to the following:

	Fiscal year 1974	Combat [5]	Support [5]
4⅓ divisions	65,300	15,672	49,580
2 armed cavalry regiments	6,100	1,468	4,636
Berlin brigade	3,900	936	2,964
Other combat units	17,900	4,296	13,604
Missile forces	22,900	5,496	13,604

	Fiscal year 1974	Combat [5]	Support [5]
Units supporting divisions	65,500	15,740	49,784
Strategic communications, intelligence and security	10,900	----------	10,900
DOD/joint activities, free world and other services support and others	6,100	----------	6,100
	198,600	43,608	154,992

[1] Computed on the given Army divisional combat-to-support ratio of 42 percent combat to 58 percent support.
[2] 64,600 is the total authorized strength of the divisional forces.
[3] Artillery, combat aviation, combat engineers and air defense.
[4] Includes 7,600 in direct support of missile forces.
[5] Computed on the basis of 24 percent of Army personnel assigned to combat skills, which in the Army includes all individuals assigned whose primary duty is to fire at the enemy.

Regardless of which ratio is used to measure the combat capability of our forces in Central Europe, it is apparent that a majority of them are serving in non-combat headquarters and support roles. In light of the large numbers of troops assigned to non-combat roles and the vagueness of the "threat" they face, it is difficult to justify either the manpower levels or the escalating costs involved.

How do these military manpower deployments that we have maintained in Europe for over 20 years actually defend U.S. national security? The oft-stated purpose of our conventional general purpose manpower in Europe is to provide a means of phased "flexible response" to a Soviet ground attack. Any level of Soviet attack is highly unlikely. But if an attack were likely it is doubtful that U.S. deployments in Central Europe would be able to respond successfully in a purely conventional manner. They are not positioned, trained, manned, or equipped to conduct an effective non-nuclear initial forward defense.

30-DAY WARNING

To provide a militarily credible ability to respond to a conventional Soviet attack, U.S. forces deployed in Central Europe plan on a warning and mobilization period of about 30 days. A caveat to this effect is written into all statements of U.S. land force missions in NATO.

With such an assumed 30-day warning and mobilization period prior to the commencement of hostilities, the U.S. divisions could be repositioned, reinforcements flown in from the U.S., some of the dependents evacuated and usable war-time lines of supply and communication (which are presently non-existent) could be opened.*

Without such a period of preparation—in the event of a sudden attack—it would be impossible to accomplish any of these requirements, or to gain necessary air superiority to permit the landing of the rapidly airlifted U.S. reinforcements. Yet these airlifted reinforcements are essential to any hope of making a forward defense in Europe. For example, the Department of Defense has stated, "U.S. Army forces located in West Germany are spread thin. However, our plans for Europe include substantial augmentation. That part of the Reforger Division which is based in the Continental U.S. is part of the Commander-in-Chief of Europe's M-Day force and therefore will be deployed during a period of increased tension. Also we plan to deploy an additional two divisions to Europe within 30 days. These two divisions are considered the *minimum essential* for the conduct of an initial conventional defense in the Central Region (italics added)."

Without the additional two divisions plus 10 support units, it is not possible for the U.S. Seventh Army to conduct an effective initial forward defense east of the Rhine River. Under these circumstances the U.S. ground forces deployed in Central Europe would have no choice but quickly to resort to tactical nuclear weapons to save themselves from being destroyed. And at least since 1961 they have planned on making first use of tactical nuclear weapons, from 2.5 to 20 kilotons, within the first 72 hours of commencing battle.

NUCLEAR WEAPONS OR DEFEAT

In 1970 General Lyman Lemnitzer, the U.S. Supreme Commander in Europe from 1962 until 1969, stated the scope of the problem our deployed conventional forces face in testimony before the House Foreign Affairs Committee. "One of the greatest problems that would confront NATO today would be large conventional attack. Then we would be faced with a decision to use nuclear weapons or be defeated," he said.

It would seem that rather than providing a "flexible" manner of response, U.S. conventional troop deployments in Central Europe actually lock us into early first use of tactical nuclear weapons, which would initiate an escalation that could quickly lead to a massive nuclear exchange.

The level of U.S. ground force deployments to NATO should thus be seen not so much in the context of a viable military force for conventional defense, but as a large hostage force manning a tactical nuclear tripwire that guarantees that any American President must opt for immediate nuclear war in Europe. Not to do so would be to negate long-standing military contingency planning to use atomic demolition mines and tactical nuclear weapons in the early hours of any sudden conventional attack. Presidential denial of the use of these nuclear weapons would place the lives of over a half million U.S. servicemen and dependents in grave danger.

*The ability of U.S.-based forces rapidly to reinforce our forces by air is questionable. For example, Exercise Reforger II conducted in the late summer of 1970 tested U.S. ability to airlift troops rapidly to Europe. This exercise required nearly 10 months of prior planning, cost around $10 million and took about a week to move 11,400 soldiers to Europe. Only about 3,000 of those troops were combat personnel. The rest were command and support personnel. It then took those forces another week to remove their prepositioned heavy equipment from storage and put it in operational condition. A 1973 General Accounting Office report indicates that much of the prepositioned equipment was either in the wrong place, broken, or vulnerable to capture in the event of an attack.

THE ENERGY CRISIS

Mr. BROOKE. Mr. President, we in Massachusetts pride ourselves on our practicality. Innovating, making-do, a spirit of pragmatism are part and parcel of our heritage and makeup.

The energy crisis was a fact of life in New England long before the country as a whole grasped the imminence of the danger. Time and time again imported fuel oil has had, at the very last minute, filled almost empty tanks. Of late, even this source of alternative supply is not readily available. And its price has jumped alarmingly.

Several ideas have been put forth in an effort to conserve, save, preserve the dwindling energy supply. The Massachusetts Legislature recently endorsed one such idea which, to me, has considerable merit—a 12-month system of daylight savings time.

It is my hope that the Commerce Committee of the Senate will give most serious consideration to this proposal during 1973. Such a stitch in time, as the old saying goes, could save much energy.

Mr. President, I ask unanimous consent that these resolutions be printed in the RECORD.

There being no objection, the resolutions were ordered to be printed in the RECORD, as follows:

RESOLUTIONS

Memorializing the Congress of the United States to enact appropriate legislation for the uniform and coordinated observance by the several States of a twelve-month system of daylight saving time

Whereas, A uniform and coordinated system of reckoning time throughout the several states is convenient and necessary for the proper and efficient carrying on of interstate commerce; and

Whereas, By the Uniform Time Act of 1966 Congress provided for such a uniform and coordinated system, including the observance of Daylight Saving Time, except in those states which by law omit such observance, during the summer months, from 2:00 A.M. on the last Sunday of April until 2:00 A.M. on the last Sunday of October of each year; and

Whereas, The benefits of Daylight Saving Time, in providing an extension of natural light into the evening hours, have been almost universally acknowledged not only in the United States but also in many foreign nations, some of which currently observe it on a twelve month basis; and

Whereas, The return each fall to Standard Time, whereby winter sunset occurs at 5:00 P.M. and earlier in most latitudes of the United States, causes an undesirable encroachment of darkness upon the latter part of the active day, requiring an unnecessary and undesirable drain upon valuable and increasingly scarce power resources to supply artificial light, creating conditions hazardous to vehicular and pedestrian traffic during a peak travel period and offering unduly propitious conditions for violent and predatory criminal acts upon the streets and thoroughfares of many urban areas; and

Whereas, The value of Daylight Saving Time as a conservation measure, reducing the consumption of fuel for power generation and the concomitant effusion of pollutants, was recognized by the Congress in providing for a twelve month observance of this time reckoning during the war emergency period from February, nineteen hundred and forty-two to October, nineteen hundred and forty-five; and

Whereas, Urgent current needs for conservation of energy sources, control of pollution, deterrence of street crime and reduction of the human suffering and property damage due to accidents combine to support the advisability of a permanent twelve month advance in the system of time reckoning; and

Whereas, Resolutions substantially identical to this have been submitted for the consideration of the legislatures of the several states comprised, in whole or in part, in the Eastern Time Zone, for the purpose of permitting and encouraging a uniform expression and representation to the Congress by said states acting in concert; now, therefore, be it

Resolved, That the General Court of Massachusetts joins with the other states in the Eastern Time Zone in calling upon the Congress of the United States to enact appropriate legislation for the uniform and coordinated observance by the several states of a twelve month system of Daylight Saving Time; and be it further

Resolved, That copies of these resolutions be transmitted forthwith by the secretary of the commonwealth to the President of the United States to the presiding office of each

branch of the Congress, and to each member thereof from the commonwealth and to the presiding officers of the legislative bodies of the several states in the Eastern Time Zone.

House of Representatives, adopted, March 12, 1973.

Senate, adopted in concurrence, March 19, 1973.

FINANCIAL CONDITION OF OPTOMETRY SCHOOLS

Mr. JAVITS. Mr. President, the State College of Optometry, State University of New York, located in New York City, is the first such optometric school in the State. It has been a sorely needed facility; we have been excited about its creation.

The announced budget cuts in Federal funding for the schools and colleges of optometry presents an ominous situation for all 12 schools. The life of the fledgling New York institution may not be in question; surely the quality and scope of its programs are.

Capitation funds for the State College of Optometry are utilized for planning, coordination, evaluation and implementation of academic and clinical programs. Although a part of the State educational system, as you know New York has reached the same type of crisis in budgeting we see on the Federal level. No great chunks of aid seem forthcoming on the State level.

In addition to capitation funding, the cessation of the school's special project grant would eliminate all personnel involved in minority recruitment and thus effectively eliminate the program. This is an area which has seen great promise in optometric education in general. So many of these students seem determined to practice in the disadvantaged areas of the country, those communities suffering the most from lack of adequate health personnel.

With reduction in scholarships and loans, these very students will find even more difficulty in obtaining the wherewithal to proceed with their education. Certainly financial ability should not become the only criterion for admission into professional schools. This new educational policy may force this day upon us.

Some try to tell us that there is no shortage of competent vision care specialists in the Nation today. That may very well be true—although I doubt it. This fiscal policy in relation to these 12 schools and colleges would create that shortage in very short order. As Federal funds vanish from the academic scene, the schools will be forced to reduce their enrollments, in a desperate attempt to reduce costs. In reducing those costs, the quality of education may well be compromised.

The investment in optometric education is small from the Federal standpoint. The dividends are great for they concern the health of the people of this Nation, the people we represent. By no means should we abandon this needed aspect of health education. We need all the trained health care practitioners we can reasonably educate.

CONSUMER FEDERATION OF AMERICA AWARDS

Mr. MOSS. Mr. President, on Monday, May 7, 1973, the Consumer Federation of America bestowed its highest awards on two distinguished public servants, WARREN G. MAGNUSON and Miles W. Kirkpatrick. In doing so, this outstanding organization, made up of diverse consumer-oriented organizations representing millions of Americans, paid tribute to two of the great heroes of the American consumer.

Senator MAGNUSON has been chairman of the Senate Commerce Committee longer than anyone in history. In his position, he has drafted, steered through the committee and the Congress, and seen signed into law the legislation which has given the consumer those fundamental rights which modern society demands. Thus, it was with great pleasure that I witnessed the presentation to "Maggie" of the Consumer Federation of America's Distinguished Public Service Award.

As chairman of the Federal Trade Commission, Miles W. Kirkpatrick undertook to utilize the tools which Congress provided to protect the American consumer. His stewardship of the FTC will long stand as a mark of the success of diligent application of the laws which Congress enacted to protect the consumer.

Mr. President, I ask unanimous consent that the remarks introducing Senator MAGNUSON as well as his response and the remarks of Miles W. Kirkpatrick be printed in the RECORD.

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

INTRODUCTION OF SENATOR W. G. MAGNUSON OF WASHINGTON

(Remarks by Gordon H. Cole, editor of the Machinist)

Perhaps the best affectionate and perceptive tribute to our guest of honor this evening was paid by President John Kennedy, years ago in Seattle: "Most members of the Senate, as you can already judge, have developed the art of speaking with precision and clarity and force. The secret of Senator Magnuson's meteoric Senate career has been the reverse. He may make clear speeches to you on great public questions. But, in Washington he speaks in the Senate so quietly that few can hear him. He looks down at his desk. He comes into the Senate late in the afternoon. He is very hesitant about interrupting other members of the Senate. When he rises to speak most members of the Senate have left. He sends his messages up to the Senate; everyone says, 'What is it?' and Senator Magnuson says, 'Well, it's nothing important' (pause) and the Grand Coulee Dam is built."

This tale of legislative prowess has its counterpart in every one of the legislative arenas in which this great Senator has made his mark. Not the least of these is the incredible outpouring of major consumer laws which bear his name as author and prime mover. From auto and tire safety to flammable fabrics; from gas pipeline controls to the Child Protection and Toy Safety Act; from the Fair Packaging and Labeling bill (in which he shared leadership with Phil Hart) to credit advertising reforms. It is safe to say that no single Senator in the history of Congress has had a greater input on the major body of law—and his laws are designed to protect the health and safety of our families and our children, to give us an honest dollar's worth for every dollar spent, to raise the standards of business morality.

But the parade of legal statutes doesn't do "Maggie" justice. They only give us a clue to the skill and the good-natured calm with which he exercises leadership in the Senate.

In the waning days of the last Congress, conference committees of the Senate and House met in head-to-head confrontation over the Product Safety Act. It would establish a "Consumer Product Safety Commission," the first new regulatory agency since the '30's. From its very origins, it bore Warren Magnuson's stamp. It had begun with the quiet introduction of his bill to create a temporary National Commission on Product Safety. He had designed the temporary Commission to build public demand for adequate laws to keep needlessly hazardous products out of our homes. The Commission had recommended strong legislation and Senator Magnuson had introduced it. Together with such allies as Senator Moss in the Senate and Congressman Moss in the House, he steered the bill through the Senate.

And now the two Houses were locked in conflict over a key provision of Magnuson's bill—a provision which, for the first time in any legislation, would give *any citizen* who had reason to believe that an unreasonably hazardous product was on the market, the power to petition the Product Safety agency for action. And, the agency failing to act, the power to go to court to compel the agency to act.

There was fierce opposition within industry to this landmark provision. And industry found its advocates along the House conferees.

Those who were there described it with some awe. I'm told that "When Maggie lumbered into the conference it was as if the wise and seasoned teacher had suddenly come into the room where a group of kindergarten children were raising cain. Where there had been squabbling, the conferees suddenly became quiet, respectful. Good-natured Senator Magnuson announced that as a gesture of good faith he was going to move that the Senate conferees adopt the "Springer amendment" giving citizens the right to sue. Now "Springer," whose name he gave to this amendment, was the ranking Republican of the House Commerce Committee, no great hero to CFA. In fact, Congressman Springer was one of the more hostile of the House conferees. In an unguarded moment he had suggested that the staff try to revise the Magnuson citizen-suit amendment and Magnuson knew that the staffs had come up with a solution, with language just as good as the original. When Magnuson generously offered to accept the "Springer amendment," he threw that negative-minded Congressman so off balance that he never did recover. So the "Springer amendment," a milestone in consumer protection, is now part of the law. And it was done with a smile and a handshake.

The Kennedy story about Grand Coulee Dam has its consumer counter-part. This one occurred late one afternoon when the Senate was debating the postal reform act which was to transform the Postal Service into the great efficient private enterprise marvel which gets mail from Washington to Philadelphia at about the same pace as the stage coach and is bankrupting most nonprofit publications with second class permits, such as the Machinist.

One of Senator Magnuson's pet consumer peeves had always been unsolicited merchandise sent through the mail.

We've all been plagued with it. I'm told that when he discovered that the postal reform bill was on the floor he telephoned his office and asked for the draft of a bill he had prepared to make all unsolicited merchandise a gift to the recipient. About 7:00

P.M., with four or five floor leaders of the bill on the floor, he quietly rose and offered an amendment making unsolicited merchandise a gift. His fellow Senators found his brief words so persuasive enough that they not only accepted the amendment but rushed to co-sponsor it. It was in the bill which passed the Senate and went to conference with the House.

Under the spell cast by this Senatorial magician, the House conferees quietly accepted the provision and it became law. Today every piece of unsolicited merchandise you or I receive in the mail is a gift—a gift let it be said of Warren G. Magnuson.

Laws are just part of the daily contribution which Warren Magnuson makes to the consumer, as Chairman of the Commerce Committee—a post of enormous power which he has held for nearly twenty years—longer than any man in history—and also as the ranking member of the all powerful Appropriations Committee. A stern word in a hearing, a brief telephone call; a pointed letter. They come from his office every day, stiffening the spine of the Federal Trade Commission, getting a laboratory set up to test the tar and nicotine yields of cigarettes; persuading the Federal Trade Commission to use the District of Columbia as a test laboratory for local anti-fraud regulation; raising appropriations for neglected consumer programs; spurring the banning of hazardous products like cyclamates and giving such agencies as the FCC the quiet, behind the scenes encouragement necessary to take such hard stands as requiring anti-smoking ads on television.

When the bureaucracy fails to respond, they learn to regret his anger. For years he had prodded the Commerce Department to promulgate regulations on flammable fabrics to protect children against hazardous sleepwear. Finally Commerce published a standard requiring flame retardant sleepwear for children—but only up to the age of six. This was not enough. Senator Magnuson knew of countless tragic cases of young girls, 10, 11, and in their early teens, who had suffered hideous burns when flannel nightwear caught fire. So he went to the floor again, this time with an amendment to the appropriations bill. He offered an amendment to mandate the setting of flammable fabrics nightwear standards to cover the sizes for older children as well. No one, not even the most ardent textile state Senator dared to confront him on the amendment and it passed unanimously. The Commerce Department finally got the message and issued its standard to protect older children as well.

Today along with strong allies such as Senators Hart and Moss, Ribicoff, Pearson, Percy and Cook, he remains in the forefront of the crucial consumer battles. The Magnuson-Hart no-fault insurance law represents a major institutional reform which will transform an inefficient, expensive, cruel and wasteful system into a fairer and more economical system. In doing this he is taking on the powerful auto insurance industry and the Trial lawyers who have vowed to fight to the last fat fee that can be carved out of the misery of their clients. It is a tough battle. Maggie expects to win it.

He is a prime sponsor of the Consumer Protection Agency bill.

His Magnuson-Moss Warranty/FTC Improvements Act, a bill to give meaning and substance to product warranties and to give teeth and clout to the Federal Trade Commission, will undoubtedly pass the Senate overwhelmingly this year as it did last; hopefully, it will meet with House approval this year.

And while these bills are proceeding, he continues to seek new ways to make the system work better; to bring out the best in business practices, to rid the marketplace of shoddy goods and service in this time of pinched pocketbooks, and to dedicate himself to the proposition that every American is entitled to full value for his consumer dollar.

REMARKS OF SENATOR WARREN G. MAGNUSON

There's a fresh wind blowing through Washington these days and it's up to us to make certain that it blows to the advantage of the American consumer.

The spotlight has been focused with penetrating intensity upon the relationships between this Administration and the special economic interests who have long sought insulation from strong consumer laws and effective, influence-free regulation.

The energy interests, for decades, have sought freedom to charge all that a desperate energy market can bear for natural gas, free of regulatory restraints.

The Food industry and others have manned the barricades against the creation of even a modestly funded consumer advocate, designed to prod and invigorate the regulatory agencies-like a pike in a carp pond.

And the most die-hard defenders of the auto insurance mess continue to fight a holding action against "no-fault."

If the American public is to be convinced that the White House has not been sold to the special interests, then the Administration must now abandon its short sighted and suspect opposition to reasonable and moderate consumer initiatives now germinating in Congress.

Up to this moment the White House has consistently downgraded consumer representation in its inner councils. It is time for the White House to listen to the voices of consumers at the same decibel level as it hears the voices of corporate campaign contributors and to recognize the need for an independent consumer advocate, and to support the legislation which even leading Republicans such as Senator Javits and Cook have joined with us to sponsor.

It's time for the White House—which has endorsed the *concept* of no-fault insurance—to close its ears to its insurance company donors and support strong federal legislation.

And it is now time for the Administration to reassess an energy policy which seems to have drawn its blueprint from oil company dreams focused only on profits. The Administration should support energy programs which will effectively stimulate the development of new energy resources without creating an unconscionable windfall for an already pampered and highly profitable industry.

Whether it be drug safety, the integrity of our food supply, ridding the country of flammable children's sleepwear, or vigorous enactment of antitrust laws, *this Administration must now redeem its integrity one step at a time by demonstrating that the public interest and not the special interests are pre-eminent in its councils.*

An Administration can be no stronger than the stature, competence and above all the integrity, of the men and women who people its high offices. The Senate Commerce Committee has the responsibility for reviewing the candidates nominated for most of the regulatory agencies and high offices in the Department of Commerce and Transportation. We have always given the President—without regard to party—the benefit of the doubt on these appointments. We have always believed that the President, elected by mandate of the people, is entitled to have serve him the men and women he chooses—unless they are clearly disqualified. But I must tell you that we have swallowed nominees by this Administration who have left a bitter aftertaste and our tolerance for mediocracy and lack of independence from economic interests is rapidly coming to an end.

Here, too, the President has an opportunity to fill vacancies, whether it be on the FTC, or the FPC, or in the Departments, with the kind of men he has now chosen to head the Justice Department and the FBI, men with stature, known competence, and a history of commitment to public service. Above all, men like Miles Kirkpatrick.

The National Commission on Product Safety was perhaps the most successful and the most widely hailed study commission of any appointed by any President. Yet this President did not see fit to select even one of its members, Democrat or Republican, for membership on the permanent Consumer Product Safety Commission which was the product of the study Commission's work. He has an opportunity, in the naming of the fifth Commissioner, to rectify that omission.

Vacancies will be occurring soon in the Federal Trade Commission. That agency has performed well and independently under this Administration. Fairness requires that the fact be acknowledged. But here again key vacancies will occur soon. Will the President give us men and women who will carry on and strengthen the agency? Or will he give us only those whose backgrounds are slanted to bring comfort to the Administration's business constituency.

It is up to you and it is up to us in Congress to continue asking these questions until the answers are the right ones.

REMARKS BY MILES W. KIRKPATRICK

Ladies and gentlemen. I am indeed honored to be here tonight before this group and to receive the recognition that is evidenced by the award given me tonight. As for the terms of the award and the introduction that you have just heard, my own view is that you have just borne witness to a classic example of "puffery." To wit, the extolling of a product in ultra-pleasing terms that does no real harm because no one is expected to accept it as anything resembling the truth. I am, however, enormously flattered and at a loss for words to express my deep appreciation.

It is now more than two months since I left the Federal Trade Commission, and I do not intend to dwell upon what was or was not accomplished in my time at that agency.

I think it fair to say, however, that the commission was attentive to the problems of the consumer. Tonight I want to make a few observations about some aspects of the commission's relationship to the consumer.

Let me start by observing that, as evidenced by the wide-ranging interests of those who are present tonight, one of the striking characteristics of the consumer movement of the 1970's is its enormous breadth and diversity. Consumers are asserting their rights in all areas of our multibillion-dollar domestic economy. The commission is very much aware of the consumers' efforts in that regard.

For example, the commission received in my time—and I assume continues to receive now—letter after letter complaining about consumer problems that the writer faces or that the writer just wants to bring to the attention of the commission. In the face of that torrent of mail and of rising concern for the consumer, one fact stood out to me very clearly—the Federal Trade Commission obviously is not capable of solving the individual problems of millions of consumers. We could not be, nor were we designed to be, a giant law office for the litigation of individual consumer disputes.

The commission's response must be to plan its activities in limited ways that apply maximum leverage for the largest number of consumers. The commission's budget is severely limited; it is only a small fraction, for example, of the advertising outlays of many large corporations. Many of the small consumer problems which are obviously important to individual consumers may have small

importance when viewed against the spectrum of the commission's responsibilities. State and local consumer protection agencies and private grievance solving mechanisms must be made available to solve the bulk of the individual consumer complaints. Our program, as a Federal administrative agency, was to plan our enforcement activities on the broadest possible fronts.

But aside from the sheer impossibility of a government agency of the commission's size and mandate of obtaining relief for each individual consumer in day-to-day problems, my view was that the commission should not be cast in the role of a "big brother" protector against all consumer wrongs. I am convinced that consumers should and must be free to make and to live with their own economic choices. I hasten to say, as with all general rules, this one has some exceptions. Thus, Congress has chosen to outlaw the sale of many flammable fabrics. The same is true of other dangerous substances. I suppose that implicit in congressional action of this kind is that most, or all, consumers would choose not to buy a product if fully informed of the dangers involved.

In other areas, it seems to me that it is not for the Government to say what is good for consumers or bad for consumers. Rather, government should alert consumers by seeing to it that accurate information is available so that consumers may make their own choices in a fair and competitive marketplace.

Putting it another way, I suggest that government should not have any preconceived notions as to how consumers *ought* to behave. Consumers should be free to choose for what to him or her are good reasons, bad reasons, or no reasons at all. It is all right with me if some consumers are arbitrary or irrational in their decisions, so long as those who wish to be rational are able to do so.

I like to think that the commission, in terms of the principles just suggested, has advanced the cause of the consumer at least some little distance.

For many years the Commission concentrated its work in consumer protection on the prevention of practices which deceived the consumer. That effort had the important effect, I believe, of greatly reducing the misinformation confronting consumers in the marketplace. More recently, however, while not abandoning the effort to cut down misinformation, the commission has been refocusing on programs looking to increasing the amount of information that is essential to a consumer in making rational decisions. Some of these programs are in their infancy and in one instance have been rendered ineffective by court attack. I believe that the commission will accomplish some major work in this area; we scratched the surface of these problems, but an enormous amount obviously remains to be done. But there has been progress. For example, the thrust of commission rules such as the care labeling rule, the holder in due course rule, the door-to-door sales cooling off rule, and concepts such as counter advertising and corrective advertising, are all grounded on the same basic concept of creating an economic environment where the consumer can represent his own economic interests effectively.

The commission's objective, in short, is to make it possible for consumers to choose in their own best interests, as they perceive them, in a fair and competitive marketplace. I believe that the commission's role is not to attempt to solve directly the thousands of consumer complaints which came to its attention, but to ensure that the marketplace functions in such a way as to avoid or remedy consumer problems without the need for direct government intervention.

But it is not only at the commission that the consumer's interest is a moving consideration of government. This is also the objective of the consumer legislation currently before Congress.

For example, there will shortly come into being as a result of 1972 legislation a consumer product safety commission. That commission has broad rulemaking and remedial powers. It will be composed of five commissioners and will have jurisdiction to establish safety standards for consumer products over almost the entire range of the consumer market. Consolidated under one roof will be, in addition to the greatly expanded jurisdiction of the new commission, the flammable fabrics safety work heretofore accomplished by the Federal Trade Commission and the responsibility of the FDA with respect to hazardous substances and children's toys.

Again, in the field of legislation, I have little doubt that there will be created by the present Congress an independent Federal agency to advocate and defend consumer interests before the agencies and the courts. That legislation came within a hair's breadth of passing the last session of Congress and its passing in this Congress would seem almost assured.

As to the Federal Trade Commission itself, Senator Magnuson's Commerce Committee has again introduced legislation looking to the increase of its powers. A similar bill during the last session came upon shoal waters because of the inclusion of rulemaking provisions which have for the time being been eliminated from the present bill. The bill would give to the commission the important power to seek injunctions before the Federal courts to bring illegal practices quickly to a halt. The cease and desist order, with the months and years of delay which are inevitable, is freqeuntly not an effective means of enforcing the law in the circumstances of the change and mobility of our society. The same bill would also give to the commission the increased dignity and effectiveness of enforcing its own order in the courts and not have to take those matters to the Department of Justice.

In addition, the Magnuson bill has some totally new and important legislation dealing with warranties. I suppose that the most frequently complained of default on the part of manufacturers is that involving product warranties. Thousands of letters come to the commission on that subject. The proposed legislation would greatly strengthen the commission's hands in this regard in requiring clear, relevant and enforceable warranties.

Another sign of progress toward informed consumers—Senator Hart has opened hearings on the life insurance industry with the prospect of a so-called "truth in insurance" bill in the not too distant future. At the same time, Senator Moss is holding hearings on his re-introduced bill to establish a national institute of marketing and health; this bill, in my view, would provide an enormously constructive mechanism to study the effect of marketing and advertising over the long term.

An important common denominator of those major efforts on behalf of the consumer, both at the FTC and in Congress, is making available to consumers the information which consumers need to protect themselves in the marketplace.

Crucial to this concept of consumer protection, however, is the consumer's willingness and ability to use the information and remedies made available to him. If the consumer does not play the role assigned to him by the classical economic concept of the free enterprise market, much of the recent consumer protection activity loses its validity.

Consumers must realize that consumer protection will work only with their day-to-day involvement. The vital role of CFA, as I see it, has been and will continue to be to involve the consumer and to promote the increasing availability of information essential to enlightened decisions on his or her part.

Thank you.

EXIMBANK SPONSORS CONCERT TOUR

Mr. SPARKMAN. Mr. President, the Export-Import Bank of the United States is sponsoring a very worthwhile project. I request unanimous consent to place a press release explaining this project in the RECORD.

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

EXIMBANK SPONSORS CONCERT TOUR BY NATIONAL CHILDREN'S CHOIR TO VATICAN CITY, NOTRE DAME, WESTMINSTER ABBEY

The National Children's Choir leaves the United States on April 18 for a Cathedral Concert Tour of Europe. Their sacred music will be heard in Rome on Easter Sunday morning at the Holy Father's Mass on the steps of St. Peter's. The following day they will sing mass at 9:30 A.M. in a chapel within the Basilica. From Rome the eighty children will travel to France to perform at the Cathedrals of Notre Dame, Chartres and Rheims, and then to England to sing at St. Martin-in-the-Fields and at Westminster Abbey.

The concert tour is being sponsored by the Export-Import Bank of the United States. Eximbank's efforts to promote better understanding and relations between the U.S. and other countries was cited by Henry Kearns, Chairman and President of the Bank, as one of the many reasons for the Bank's interest in the group's appearance abroad. Mr. Kearns said, "these young people will be our 'junior ambassadors' of goodwill during their tour in Europe. I am certain that they will make many friends for the U.S. and that their performance and joy in their work will convey the real impression of American youth to our neighboring countries."

The Choir, often heard in Washington, have performed for President and Mrs. Nixon at the White House, at St. Patrick's in New York, and at the Concert Hall of Kennedy Center. It is of mixed ethnic and religious backgrounds and was developed under the guidance of Miss Judith St. Aubin, Director of the group.

Miss St. Aubin studied at Marygrove College in Detroit and Pius X School of Liturgical Music at Manhattanville College in New York. She developed the idea for the choir while on a fellowship at Trinity College studying for her Master's degree. A child prodigy, she performed with the Detroit Symphony at the age of 6.

Major funds for the tour have been earned by the children, through their performances, and by working at all sorts of jobs from newspaper delivery to baby-sitting. They will return to the United States from England on May 5.

ANSWERING LAND GRANT'S CRITICS

Mr. BELLMON. Mr. President, over recent months considerable attention has been focused on a publication called "Hard Tomatoes — Hard Times — The Failure of the Land Grant College Complex." This report was published by the Agri-Business Accountability Project, Washington, D.C., a privately funded, nongovernmental operation.

As a graduate of a land grant college, a practitioner in the field of agriculture,

and an observer of the tremendous contribution which an efficient progressive agricultural industry backed up by the land grant college system has made to this Nation and the world, I was appalled and disgusted by the efforts of "Hard Tomatoes—Hard Times" to discredit the land grant colleges and agricultural experiment stations.

For this reason, I was pleased to come across an article by Robert H. White-Stevens, chairman of the Bureau of Conservation and Environmental Science at Rutgers University. The article was published in the March, 1973 issue of Animal Nutrition and Health magazine.

Mr. President, I believe other Members of the Senate will be interested in and helped by the review of this short and informative article. I ask unanimous consent that it be printed in full in the RECORD.

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

ANSWERING LAND GRANT'S CRITICS

(EDITOR'S NOTE.—"Hard Tomatoes—Hard Times—The Failure of The Land Grant College Complex" is a report published by the Agri-business Accountability Project, Washington, D.C. Following are excerpts from a review by Robert H. White-Stevens, Chairman, Bureau of Conservation and Environmental Science.)

This book is essentially a polemic on the Land Grant College—Agricultural Experiment Station (LGC–AES) system calculated to deprecate and denigrate the century-old organization in any way possible. It ignores the vast beneficial contributions made over the past 100 years to the life style and welfare of the American people, not to mention the tens of millions of other less advanced nations.

It is an appallingly trivial, superficial yet mischievous report, devoid of objective analysis, scholarly consideration, appropriate documentation and even competent English composition. For example, of the 300 references listed, only 101 can generously be considered appropriate objective citations, and perhaps another 23 are acceptable subjective annotations. Of the remaining 175 citations, 39 are simply nonreferences, such as quotes from telephone interviews, personal conferences, private correspondence and equivocal editorial opinions. Nineteen are explanatory footnotes and no less than 118 are repetitions of previously listed citations—an astute way to puff up the facade of erudition in a weak report.

Nowhere is reference made to even the milepost publications marking the formidable advances in agriculture over the past century.

In 1887, some 25 years after the Morrill Act initiated the land grants, the Hatch Act provided for research "to promote the efficient production, marketing, distribution and utilization of farm products as essential to the health and welfare of our people" (emphasis added). This clearly means all Americans, rural and urban. The Hatch Act continues, "It shall be the object and duty of the State agricultural experiment stations . . . to conduct original and other researches, investigations and experiments bearing directly on and contributing to the establishment and maintenance of a permanent and effective agriculture industry of the U.S., including researches basic to the problems of agriculture in its broadest aspects . . . and the development and improvement of the rural home and rural life and the maximum contribution by agriculture to the welfare of the consumers." The LGC–AES has fulfilled these charges by giving the American taxpayer a 100% return annually in food and fiber alone.

The report's suggestion that these funds were frittered away in administrative overhead, publications and trivial research is obviously belied by the enormous r.o.i. achieved.

As farm production proficiency freed increasing numbers to work in industry, education and culture, transport and communications, public health and medicine, local, state and federal government and other services, concern arose about the decline of the small family farm. Subsequent acts (Purnell Act 1925 and Bankhead-Jones 1935) were passed for the LGC–AES system to ameliorate social upheavals created in rural areas by farm changes.

The decline of the family farm and the rise of larger farms was thought undesirable. Nostalgic as it may seem to wish for the polyculture family owned and operated farm, it simply could not meet the demands of urban and suburban people. "Hard Tomatoes—Hard Times" decries these developments, which is perhaps understandable but totally inaccurate.

To suggest that the system has connived with big business to destroy the family-owned farm and drive it off the land is not only unjustified nonsense, it is political demagoguery and claptrap of the most irresponsible and mischievous kind.

The free enterprise system does not guarantee security for anyone, and government attempts to enforce such security invariably curtail freedom in direct proportion to the degree of assured security. The LGC–AES system operates exclusively in a free enterprise economy, where none of its recommendations or guidance must be followed.

Growers, who contract their production with corporations such as canners, freezers, packers, feed formulators, etc., do so on a voluntary basis and are under no compulsion whatsoever. They simply prefer to operate at a guaranteed moderate rate return rather than risk marketing their product on a win or lose basis, completely dependent upon the vagaries and uncertainties of the open market. They can enter into or withdraw from such contracts between crops, flocks or herds as they deem fit.

The extension agents exercise no legal or authoritarian control over what a grower actually does. They advise him of federal and state laws and offer him instruction and guidance in farm operations, but they leave all decisions to the grower himself.

"Hard Tomatoes—Hard Times" completely misses, perhaps intentionally, this nature and contribution of the system. It instead attempts to deprecate and denigrate the entire system by picking over and dwelling upon the relatively few errors of commission and omission.

The target of the report is clearly "agribusiness", which is reiterated in the text several hundred times and is defined in the foreword as: "A corporate aggregation that includes: 1) Agricultural input firms" (i.e. suppliers of seed, processed feeds, fertilizer, agricultural chemical credit, insurance, etc.); "2) Agricultural output firms" (This should include all farms that produce and sell products, but the book excludes farms, other than corporate farms, and includes processors, handlers, distributors and retailers of farm products); "3) Corporations indirectly involved in farming," and "4) Corporations indirectly involved in farming" (which, although not defined, would have to include such industries as steel and other metals, building, transport and communications, textile, utilities, machinery, and virtually the bulk of all industry)".

This definition reveals that the real target is industry in general, educational institutions in general, the capitalistic system in general—in short, the establishment in general. The LGC–AES organization is the chosen salient to approach this general objective. There are many other channels through which such salients can be mounted. These would include medical science, jurisprudence and legal practice, transport, housing, taxation, conservation and environmental protection, foreign trade, etc. Several of these have indeed already been openly denigrated in similar polemics. The technique among these diatribes is surprisingly uniform: ignore the major contributions to human and national welfare; concentrate upon errors, misjudgments, malfeasance and injustice; select references from any source regardless of authenticity or objectivity provided they will fit favorably into the preconceived intent; and conversely exclude all opposing references regardless of their validity, objective experimental evidence. Finally interlard the final report with copious opinionated commentary and snide and insidious quips and aphorisms irrelevant to the topic but hopefully amusing and incitive to the lay reader.

There have been some dozen books and reports issued within the past decade including "Silent Spring", "The Population Bomb", "The Closing Circle", "Poisons in Your Food", "Unsafe at Any Speed", "Harvest of Shame", etc.

"Hard Tomatoes—Hard Times" falls into this category through its common denominators of incomplete evidence, biased selectivity of documentation, preconceived conclusions, exaggerated claims and hyperbolic conclusions. It does, however, fall sadly below its antecedents in its somewhat confused organization, weak literary style and totally impracticable and naive recommendations. The obvious inexperience of the "researchers," the inferior writing and the general superficiality of the total treatise ensure that this report will stand far down the list of such antiestablishment polemics.

The concerted attack on "agribusiness" is, however, worth consideration. The underlying theme appears to be that all the food, fiber and shelter required by a nation of over 200 million can be as readily produced by the small family farm, without the "inputs" or "outputs" ascribed to "agribusiness". The report admits that such farming currently contributes less than 10% of the total food, fiber, and shelter, while "agribusiness" farming provides the other 90% plus. Yet the report blandly contends that America should return to the halcyon days of a century ago when nearly 50% of the population was bound to the toil of the soil to meet the bare necessities of life. It completely inverts the cause:effect relation of labor: technology.

The American farmer is now feeding and clothing twice the population on half the arable land for half the consumer cost. This extraordinary accomplishment, a direct result of the LGC–AES system, is completely ignored by "Hard Tomatoes—Hard Times".

The report repeatedly denounces the cooperation, collaboration and general intercourse that has developed between these ancillary industries and the LGC–AES system in their common effort to serve the farmer-business. The insidious and quite unjust assertion is repeatedly made that this logical association is, in fact, a nefarious conspiracy to fleece the farmer and the consumer purely for self-centered interests and profits.

The facts are that it is the responsibility of the system to check, test and monitor all such "input-output" to ensure it is efficacious, economically valid and safe to both the user and the consumer.

In conclusion, "Hard Tomatoes—Hard Times" is really rather a silly document which avoids a penetrating assessment of the LFS–AES system and instead picks up odds and

ends of difficulties which it analyzes without adequate documentation and extrapolates the biased interpretation to embrace the entire LFC–AES system.

It ignores the enormous contributions the system has made to America and the world but emphasizes social problems which are either being studied and resolved or lie beyond the pale of LGC–AES responsibility.

THE WATERGATE AND THE PRESIDENCY

Mr. McGOVERN. Mr. President, one of the Nation's authorities most qualified to speak on the meaning of the Watergate tragedy is Prof. Arthur Schlesinger, Jr. Mr. Schlesinger long ago distinguished himself as an authority on the administration of President Andrew Jackson. In more recent years, he has been at work on a multivolume history of the administration of President Franklin Roosevelt. During the early 1960's he was a special assistant to President John F. Kennedy.

A noted historian, he is also a Pulitzer Prize-winning author and a brilliant student of American politics.

The Wall Street Journal of May 3, 1973, carries a provocative piece by Mr. Schlesinger relative to the Watergate scandal and its real significance for the Presidency and our political system.

I ask unanimous consent that this article be printed in the RECORD.

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

A DEMAND FOR A SPECIAL PROSECUTOR

(By Arthur Schlesinger, Jr.)

President Nixon's actions on Monday were dramatic but perhaps not conclusive. They were rather like the lightning flash that illuminates the midnight sky, only to die away and leave the darkness much as before. One image, however, remains. That is of the President implying most strongly, even if not stating expressly, that he had no advance knowledge either of the original campaign of political espionage and sabotage or of the subsequent program of cover-up. The rest of his presidency and his place in history will depend on his capacity to defend these positions.

The President took these positions at a certain price. He threw overboard, for example, the idea that the President knows better than the rest of us—the idea on which Presidents claim the right to run things without congressional or popular interference. He threw overboard too the idea that the Eastern establishment press had been diddling the nation. In fact, he tacitly acknowledged that The Washington Post knew more than he did about his own White House staff. And, in saying he did not take White House involvement in the Watergate affairs seriously until March 21, he threw overboard the picture of Nixon, the demon executive, and convicted himself of inexcusable administrative ignorance and incompetence.

Everyone else knew that something was wrong. What kind of a President do we have who would not bother for nine months to take the trouble to find out for himself whether his own people had been, as mounting evidence indicated, engaged in criminal activity? Even last Monday he continued to call Messrs. Haldeman and Erhlichman "two of the finest public servants it has been my privilege to know"—a peculiar characterization of men who have been closely tied by sworn testimony to an attempt to corrupt the democratic process. Nor did he say anything to the American people on April 30 about the conclusions of the "intensive new inquiries" which he told us on April 17 he had started on March 21, now more than six weeks ago. We know no more now than before what the President thinks of the behavior of his former Attorney General, who puffed on his pipe while people proposed the commission of crimes in his presence, or of his former Secretary of Commerce, his office safe overflowing with unreported campaign contributions in cash (the McGovern campaign declined to accept large cash contributions), or of his personal attorney, Herbert Kalmbach, a key figure in paying off the spies and saboteurs.

MR. RICHARDSON'S ROLE

If the President is serious in getting to the bottom of the affair, it is not enough to appoint Elliot Richardson Attorney General. Mr. Richardson is an able lawyer and a high-minded man, but he has shown himself in a succession of jobs entirely complaisant when it comes to doing what President Nixon wants, even if it is something Mr. Richardson would certainly not want on his own. The President—or Mr. Richardson, taking advantage of the option offered him by the President—must surely begin by taking the Watergate case away from the Department of Justice, where the prosecutors not only have a political interest in the fortunes of the administration but are even best friends of some of the suspects and their lawyers, and place it in the hands of a special prosecutor.

This was what Coolidge did at Teapot Dome when he appointed Senator Pomerene, a Democrat, and Owen J. Roberts, a Republican, as a bipartisan prosecuting team. It was what Roosevelt did when he called on Roberts to investigate the Pearl Harbor catastrophe. It was what Truman did when he brought Newbold Morris, a Republican, to Washington to investigate charges of official corruption. Nothing less than the designation of an independent prosecutor with full powers is likely to assure the people that they are getting a let-the-chips-fall-where-they-may inquiry.

Several further points deserve consideration. One is this: what a very near thing it all was! Had it not been for the strength of two institutions in our society—had it not been indeed for the courage and perseverance of two people—the Watergate conspirators might well have got away with it. The institutions are the Independent judiciary and the free press. The people are Judge John Sirica, who refused to play the Department of Justice's cover-up game, and Katherine Graham, the publisher of The Washington Post, who, despite incessant and often extremely nasty pressure from the administration, fully backed her news and editorial staff in pursuing the Watergate story to the end. But for Judge Sirica and Mrs. Graham, the independent judiciary and the free press, the ten months of lying would have worked: and the men who planned Watergate would today be secure in their power, their self-assurance and their conviction that they are above the law.

Another point: Arthur Krock told the London Observer the other day that he considered the Nixon administration the third most corrupt in American history. That is certainly true; indeed, in terms of the magnitude of money put to illegal use, it may well be Number One. But it is corruption with a difference. The crookedness in the days of Grant and of Harding was old-fashioned graft. It was politics as defined by Ambrose Bierce—"the conduct of public affairs for private advantage." Repellent as it may be, stealing money for oneself is, alas, in an old American tradition.

What distinguished the Watergate crowd was, in a sense, the purity of their motives. There is no evidence that they were enriching themselves. Their only purpose, so far as one can tell, was to keep President Nixon in power. Far from being jolly rogues like the cronies of Grant or Harding, they were thin-lipped, hard-eyed, crew-cut, Pharisaical types, who didn't drink or smoke and spent a lot of time in sanctimonious complaint about the permissive society. When these keepers of the national morals, these zealous champions of law and order, turned up in connection with Watergate, there was inevitable Schadenfreude, as when the preacher was caught in the chicken coop.

Still there was something frightening too—something that made the whole business a good deal more ominous than the gaudy peculations of the Grant and Harding days. These people were not thieves; they were self-righteous moralists who felt that the end justifies the means. And fanaticism is a greater threat than graft to a free state. Moreover, the great technical innovation involved—the introduction into domestic politics of methods devised by the Central Intelligence Agency for use against foreign foes—equips fanaticism with exceedingly dangerous weapons. Surely both the Watergate state of mind and the Watergate style of political combat must be exposed and stopped at once, or a poison will enter American politics.

And this leads to a further point: we are beginning to be told that Watergate should not be pushed too far lest, by destroying the President, we destroy the effectiveness of the American government. Newsweek quotes a Republican Senator: "It's no longer save the party or even the President. It's save the presidency." Even The Washington Post had an editorial exhortation the other day calling on everyone to rally round "the objective of redeeming the credibility and honor of the presidency." How seriously is this line of argument to be taken? Should people refrain from criticism, however well merited, on the ground that Mr. Nixon is the only President we have?

One thing to be noted is that this doctrine seems to be reserved for Republican Presidents. I don't remember its ever being invoked when Franklin Roosevelt and Harry Truman were under criticism (even though they were never under criticism for anything as sinister as the Watergate affair). Nor was this doctrine in the minds of the Founding Fathers when, in establishing the American government, they rejected the English idea that the king could do no wrong. It is a singularly un-American proposition that authority must have respect, whether or not it has earned it.

In this connection, Henry Kissinger's recent plea for "compassion" for the Watergate conspirators provided one of the most offensive moments in the whole squalid affair. This is an administration that has never shown compassion for anyone, except for big and incompetent business, like Litton Industries and Lockheed, that, indeed, has seemed to rejoice in kicking people when they are down. Recall, for example, the extraordinary pieces of vituperation against George McGovern by White House assistants on the Op Ed page of The New York Times in the month after the election. "The only way to attack crime in America," President Nixon instructed the nation recently, "is the way crime attacks our people—without pity." It would surely be more fitting for this administration, instead of starting an amnesty campaign for the Watergate 16 (or whatever the ultimate body count may be), to live and die by its own professed creed.

There is only one person who can redeem the credibility and honor of the presidency now, and that is the President. The speech and the housecleaning are a beginning, but no more. Only the full truth and condign punishment will begin to restore confidence in the administration. One thing he would be wise to do at once is to reinstitute regular conferences. If he had been exposed to constant questioning by the press over the last ten months, he would not have re-

mained in such a state of invincible ignorance over the misdeeds of the men he describes as "his closest friends and most trusted associates."

And Watergate is only part of the problem. What we need is a return to a constitutional presidency in every field. President Nixon must explain—better than Secretary Rogers did in his feeble statement the other day—by what constitutional authority he keeps on bombing Cambodia; by what constitutional authority he makes extravagant and unprecedented claims of executive privilege; by what constitutional authority he uses impoundment as a means of refusing to execute the law. The Constitution is a spacious document under which very strong men have been able to conduct the affairs of state. One must hope that after Watergate President Nixon will show a greater sensitivity to the Constitution across the board.

SENATOR GOLDWATER'S STATEMENT

The question remains: what if further investigation shows that President Nixon did, contrary to the implication of his speech, know after the fact and approved the policy of cover-up? Even more, what if it turned out that he knew before the fact and approved the policy of esplonage and sabotage? Merely to ask the question is to show how far confidence has eroded. Yet as a recent California law suit has shown, Mr. Nixon, when he ran for governor of California, permitted somewhat similar clandestine operations in his campaign a decade ago. It is his style. Senator Goldwater stated the issue with his customary directness: if it were shown that Mr. Nixon had in any way been "dishonest about this, then I think the impeachment would certainly come."

This brings me to my last point. Let us, as William F. Buckley Jr. did the other day, assume the worst. Let us suppose that President Nixon is "guilty of a misprision of felony," which, as Mr. Buckley points out, is itself a felony. What then? Interference with the electoral process would certainly qualify as a high crime misdemeanor under the Constitution and therefore as ground for impeachment. Mr. Buckley argues strongly against impeachment on the ground that the punishment would be visited primarily on the state. "An appropriate punishment, tough on the malfeasor, but intelligent and magnanimous upon the innocent state, would be the censure of the President by the Congress.

There are many obvious objections to this course. It would mean, first of all, that a President who commits a crime would receive a much smaller penalty than a citizen who committed the same crime. Such selective punishment hardly represents equal justice under law. President Jackson stated the issue properly in 1834. The President, he said, "is liable to impeachment for high crimes and misdemeanors, and on due conviction to removal from office and perpetual disqualification; and notwithstanding such conviction, he may also be indicted and punished according to law. He is also liable to private action of any party who may have been injured by his illegal mandates or instructions in the same manner and to the same extent as the humblest functionary."

Jackson was responding to the only comparable action in our history—a resolution of censure passed by the Senate on the ground that, in removing the government deposits from the Bank of the United States, the President had "assumed upon himself authority and power not conferred by the Constitution and laws, but in derogation of both." This resolution, Jackson went on to point out, charged him with having committed a high crime. It was therefore "in substance an impeachment of the President." If Congress were serious, Jackson said, it should impeach the President. Otherwise it was evading its own constitutional responsibility.

NO HALFWAY HOUSE

All this assumes, of course, President Nixon's complicity in the original crime or in the subsequent cover-up. Should this complicity be proven, Congress will have to bite the bullet and move toward impeachment. There is no halfway house. Nor, indeed, would the state be more punished by impeachment than by the continuation of a lawbreaker as its chief magistrate. What sort of example would that be of law and order at home? What kind of demonstration of American probity would it be to the world? We would not only look cynical; we would look ridiculous. Let us hope that we never come to this, that a special prosecutor will be appointed, that responsibility will be definitely placed, that the President will be unequivocally cleared. But the next step is still up to Mr. Nixon.

Mr. McGOVERN. Mr. President, a second thoughtful treatment of the Watergate issue is an address delivered by Mr. Edward L. Ericson, member of the Board of Leaders of the New York Society for Ethical Culture. Mr. Ericson spoke on New York Radio Station WQXR on Sunday, April 29, 1973. His address, dealing with the moral implications of the Watergate affair was called to my attention by my longtime friend, the distinguished New York attorney, Frank Karelsen, Sr.

I ask unanimous consent that this brilliant analysis by Mr. Ericson be printed at this point in the RECORD.

There being no objction, the address was ordered to be printed in the RECORD, as follows:

NO TIME TO DESPAIR—RISING TO MEET OUR MORAL CRISIS

If at the present moment the United States of America is in a state of moral confusion, it is because our power has been gathered into the hands of a small circle of ruthless men who feel accountable to no one and accordingly behave more like the palace guard of a Babylonian despot than the servants of a great democracy.

If we are appalled that moral rot is exposed at the very summit of national political power and that almost inconceivable fraud and corruption are now disclosed in our corporate life, we cannot pretend that these are misfortunes visited upon an innocent and gullible people. In the metaphor of an old American saying, these are only the chickens coming home to roost—evidences of the abuse of power too long condoned.

In rapid succession, three events have been disclosed which require every thoughtful citizen to make moral appraisal of our standards of public life: The Watergate affair—which has sullied the presidency itself. The ITT involvement in Chile—a shameful and dangerous misuse of corporate influence. And the multi-million dollar fraud of the Equity Funding Corporation which has shaken the worlds of Wall Street and insurance.

Any one of these three monumental scandals should be enough to shake our complacency. Together they tell us that the day of reckoning for American democracy cannot be far off. The storm warnings are all flying. In government, in business, in finance, the American people must demonstrate their moral capacity to reform and govern themselves by decent standards—or lose even the appearance of democracy. Since time does not allow us to examine all three of these instances in detail, I shall confine my topic to the ethical analysis of the Watergate, with some suggestions of what we must do to restore credibility to the processes of government.

I do not believe that such a testing of the nation should produce despair. There is no time to despair. On the contrary, there may be opportunity for reform in the current crisis. If we did not experience an event like the Watergate, the thousand little deceits and obstructions of justice which we daily ignore, could chip away our freedoms bit by bit. The Watergate may give us occasion to restore the integrity of American life by making it impossible for all but the most incorrigibly foolish to pretend that nothing is amiss.

Since the days of Joseph McCarthy, the concept of subversive activities—of un-American activities—has been so grossly abused, that one resorts to such language with hesitation. Yet, I think that no weaker term fully describes the outrages which have been committed against the ethics of democratic government in recent months. Is any son or daughter of this free land stupid enough, or morally obtuse enough, to believe that these events can be shrugged off as only the trifling effort of a little band of political zealots to interfere with another band of politicians?

The victim of the Watergate is not a politician or a party. The victim is constitutional government itself, the integrity and credibility of free institutions. One cannot excuse these crimes against the democratic system with the easy attitude that such behavior is only politics as usual.

Those who are accused of involvement are entitled to a fair trial. Only then can individual guilt be established. But the events of Watergate which are already on record are sufficient to fix this incident as one of the most serious attempts in our history to subvert American democracy.

So if one wishes to speak of subversive activities, nothing charged against the luckless defendants convicted a few years ago under the Smith Act remotely approaches Watergate as an attempt to obstruct free government. Those who participated in these deeds are truly more dangerous to constitutional freedom—more subversive in the strict sense—than all the would-be anarchists and revolutionaries who ever gathered in little corners and darkened cellars to plot their uprisings. There is no betrayal equal to that of men of power who preach law and order while attempting to sabotage an election and obstruct justice.

Observers of American life have frequently deplored the stealing of elections which was once so familiar, especially in rural and big city politics. But these old abuses, which had largely given way to *stricter concepts* of civil rights, were of a more primitive order. The Watergate introduces a more ominous pattern for the future—one familiar to the nations of Europe which fell victim to the sophisticated techniques of modern totalitarian control. Let there be no mistaking what the Watergate implies, if we do not root out the last vestige of this cancer. It brings us considerably closer to the technological dictatorship of George Orwell's nightmare world of 1984, where tyranny is presented as freedom, where public opinion is fabricated to reflect Big Brother's commands. And where the heads of the police power act as political lackeys.

In Lewis Carroll's fantasy of Alice in Wonderland, the Cheshire cat gradually disappears—until all that is left is his grin. The events of Watergate have given us Lewis Carroll's disappearing cat in reverse. All that we now see is the grin, but if we do not take care, we have witnessed the beginning of the appearance of a specter who will haunt our future—not Carroll's Cheshire cat, but Orwell's ever-present, ever-listening image of Big Brother.

(Incidentally, I might inform our radio listeners that beginning a week from this coming Thursday at 7:30 P.M., I shall offer two lectures on "The Impact of the Democratic Vision"—in the second of those addresses, on May 17th, dealing specifically with

some representative Utopias and anti-Utopias, including George Orwell's and Aldous Huxley's dark visions of a future which we may be producing through the perversion of freedom and progress. The public is invited to both of these lectures on May 10 and May 17 at 7:30 P.M., at the Ethical Society Meeting House, as well as to hear my colleagues on other Thursday evenings in this six-week series, already in progress.)

Why are liberals and conservatives, Democrats and Republicans, so deeply troubled by the events at the Watergate? Those who take free government seriously know that democracy's days are numbered when a national political campaign can be subverted and sabotaged, when a public opinion poll can be manufactured to specifications with campaign money—when the evidence of all this can be willfully concealed and condoned by officials acting under the protection and prestige of the presidency. These are grave crimes, and enough has already been documented in the conviction of the defendants to establish that the culprits were not acting without important sources of sponsorship and enormous quantities of money.

Similar acts of political infiltration and provocation may have been even more serious in distorting last year's election. The nagging fact—still not entirely realized—is that we do not know how the election of 1972 would have come out, if these events had not transpired; for the first victim of this elaborate campaign of political fraud was Senator Muskie of Maine. At the beginning of the New Hampshire primary early in 1972, Mr. Muskie was the leading candidate of his party. His greatest popularity was in his home region, northern New England. But then, as most Americans now know, a fraudulent letter was concocted to represent falsely the Senator as a bigot who had spoken abusively of New Hampshire's citizens of French Canadian descent.

Senator Muskie never overcame the damage of this act of forgery. His elimination from the presidential contest certainly changed the dynamics of the entire election. This circumstance, combined with other acts of infiltration and fraud which are now coming to light—and we can only speculate how and many other misdeeds were committed—casts a grim shadow across the most sacred act of free government—the selection of a president and a congress.

Is it any wonder that Vice President Agnew's former Press Secretary, Victor Gold, in a recent essay in the New York Times, shared his profound shock and sense of betrayal by people close to the President—people who had come to power in the name of law and order while trampling both. Is it any wonder also that James Kilpatrick, a dean of conservative reporters and a longtime defender of the President's fiscal and Indo-China policies, virtually wailed his soul-sickness before a television audience that these essentially police state, gangster deeds had been committed in the citadel of a supposedly conservative, constitutional government.

How many people in this audience remember Alfred Landon? Hardly anyone under fifty will recall much about the Kansas governor who carried the Republican banner against Franklin Roosevelt in the presidential race of 1936—and incidentally managed to win even fewer electoral votes than George McGovern won in '72. But if you watched the GOP convention in Miami last summer, you may have seen Alf Landon, the old presidential candidate from the Sunflower State, introduced as the grand old man of his party. Well, what does the Grand Old Man of the President's party think of the Watergate—and of the men close to the President who were involved? Writing in the New York Times last Wednesday, Landon confronted the issue squarely as a moral crisis of the gravest nature.

"The inherent moral questions," he wrote, "are getting worse and worse and worse. The question of character is coming in more and more all the time."

So I hope no one will be deceived into thinking that we are merely "talking politics" this morning. What we face is the necessity for making a moral judgment—of examining the standard of democratic ethics as it is understood and practiced by those who in recent years have surrounded the president and have been among his most important advisors and deputies. Alf Landon doesn't think Watergate can be dismissed as a political question. James Kilpatrick does not think it is a mere political issue. Barry Goldwater is not confused about the principle involved. These men, all Republicans and Nixon supporters, recognize the Watergate conspiracy and the consequences which flow from it as an effront to democratic standards and American morality.

Former Governor Landon doesn't think much of the former Attorney General's lame attempt to justify himself by whimpering that others kept bringing the conspiracy "back and back and back" to quote John Mitchell's words. Landon wrote what all Americans must have been thinking, had they been able to put the issue before former Attorney General Mitchell.

"We have the then Attorney General of the United States," Landon declared in his article, "with more power than J. Edgar Hoover had in his prime, finally admitting that he participated in three conferences where the bugging of Democratic National Committee headquarters in the Watergate was discussed. He could have flatly put a stop to it by simply saying, in the first conference, 'If you fellows ever go ahead with your proposed stupid, immoral and illegal plans, I'll throw the book at you, either as crooks or as 'nuts' ".

"Instead," writes Landon, "John Mitchell apparently pussyfooted around with two more conferences. He knew who was involved when it happened. He should have had them prosecuted the next day."

Then Landon goes on to say: "The astounding contradictions in his own statements have shaken and alarmed our citizenry. At the least an Attorney General of the United States has lowered the ethical standards of his high position and his profession by his conduct, betraying the confidence of the President of the United States. . . ."

"The real damage," Gov. Landon concludes, "is the diminished public confidence in, and respect for, our highest public office in the United States of America."

One need not attempt to improve upon this judgment of the former Kansas Governor and Republican presidential nominee. Apparently, Alf Landon—who is 86 years old this year—is an old fashioned American who still takes seriously the belief that law and order—and honest dealing—apply to the rulers no less than to the ruled.

So far, leading statesmen like Landon and Senator Ervin, and the editorial writers of our newspapers, have shielded the president from any suggestion of personal wrong doing. They have stressed that the President's trusted advisors and lieutenants deceived him. All Americans want to believe that our Chief Executive is not implicated.

The ordinary citizen knows that these sorry events do not belong in the house of Jefferson and Lincoln—dealings which would be more at home in Stalin's Cheka or Hitler's chancery. Elaborate plots involving trained espionage agents equipped with sophisticated instruments to disrupt democracy cannot be passed off as ordinary political capers. It is the stuff of which Animal Farm and Brave New World and 1984 are made. If not effectively outlawed, Watergate is the beginning of tyranny on tape, of dictatorship by remote control.

So Mr. Nixon must do much more than protest his personal innocence. Before the presidency can be restored to a position of respect and confidence, the entire structure and atmosphere of presidential government must be changed. The question of the President's personal involvement does not go to the heart of the matter. Something is fundamentally wrong with a concentration of influence which makes a president so woefully dependent for information and advice upon a secretive palace guard. For years members of congress and members of the President's own cabinet have complained about their inability to get through to the Chief Executive over the heads of an arrogant, power-grabbing and apparently ruthless inner circle.

No, Mr. Nixon cannot walk away from this affair and pretend that it was an abuse beyond his control. He built this byzantine White House complex against the advice and alarm of many thoughtful citizens, including leaders of his own party. It ill-befitted the Chief Executive of a democracy from the beginning. It made and kept the president isolated from responsible political opinion, putting subordinates in a position of excessive influence and censorship over the President himself.

It is a tragedy indeed that a President must vindicate himself by pleading how invincibly ignorant he remained of a situation which had disturbed responsible journalists and knowledgeable citizens for many months. I recall having read with astonishment some months ago that the President avoids newspapers and columnists who are critical of his policy and style, because they upset him. But can a President's ego justify his refusal to keep himself informed about every shade of opinion and criticism?

As every intelligent school child learns, it is the weakness of despots and dictators to surround themselves with flatterers who keep them ignorant of the people they govern. This is surely no model for the elected leader of a democratic republic to follow. So Mr. Nixon and the office he represents cannot remain successfully above the Watergate. The Watergate monster has two horns—the horn of guilt and the horn of nonfeasance—and if the President is to avoid being gored by the one, he must impale himself upon the other. No president can be aware of everything in government but to be a prisoner in his own house ignorant of events involving his closest associates which have haunted the country for months is hardly a satisfactory defense. Then to announce an investigation that turns out in retrospect to have been a whitewash, put in the hands of those with an obvious conflict of interest, is to compound the fault. The White House has been damaged, and that damage has been done from within.

But there are also heroes in this story; and because heroes are still possible in this land, we have reason to hope. The heroes to emerge from this dismal business—who have done more to spare democracy in America than many who have won decorations in battle—include two persistent reporters of the Washington Post, Bob Woodward and Carl Bernstein, who refused to quit when enormous pressure was exerted upon them and their newspaper.

The Washington Post, and especially its outstanding editor, Benjamin Bradlee, deserve the gratitude of every American who cherishes free elections and a free press. We must recall that not long ago the Washington Post and the New York Times were singled out for special criticism by Administration spokesmen because they had the audacity to question the policies of our un-

touchable lords and masters. We can be grateful that we have a free press—and keep it free!

Now that we know in part what happened at the Watergate, we must see that corrective steps are taken. At least these are a minimum:

The entire affair and all other efforts at political disruption should be examined by an independent commission, supported by investigators who are not beholden to the White House.

Congress must make certain by law that the head of the FBI is never again politically subservient or partisan.

The president must drastically reduce White House government by secrecy, which inevitably encourages conspiracy and deceit; and the Chief Executive must restore the lawfully appointed cabinet to its intended place of counsel.

Finally, and most important of all, the shameful and destructive dictatorship of the dollar over our elections must be stopped. Other democracies effectively restrict campaign spending to a decent level; and we must do so, if our government is not to be bought entirely.

These steps, at least, need to be taken to restore some measure of public responsibility.

Maybe we have learned. Maybe the American people now see how easily we could lose our freedom. Perhaps if we know that—and act upon what we know—we may restore democracy and repair the civic morality which is its foundation.

(Ethical Culture is a humanistic religious and educational movement, without sectarian creed or theology, which unites men and women of all races and religious backgrounds upon the principle of commitment to human worth and a common quest of ethical living. The New York Society for Ethical Culture is a member of the American Ethical Union, a federation of Ethical Societies.)

INTERPRETATION OF SO-CALLED CANADIAN BOAT BILL

Mr. STEVENS. Mr. President, last year Congress passed Public Law 92–601, the so-called Canadian boat bill which prohibits the use of certain small vessels in American waters. These vessels are purchased at Canadian auctions after being prohibited from use in the fisheries of that country.

A question has arisen as to whether the boats may be utilized in the fisheries of the United States for fish other than salmon. This is an important question and affects many potential purchasers.

At my request, the general counsel of the National Oceanic and Atmospheric Administration has clarified this point and interpreted the law as stating that they cannot be utilized in the fisheries of the United States for any species of fish.

I request unanimous consent that the letter of the general counsel of the National Oceanic and Atmospheric Administration of April 17 plus enclosure be printed in the RECORD.

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

U.S. DEPARTMENT OF COMMERCE,
Rockville, Md., April 17, 1973.

HON. TED STEVENS,
U.S. Senate,
Washington, D.C.

DEAR SENATOR STEVENS: This is in response to your request for information upon which to address a reply to your constituents, Julien Maule and E.W. Huntley. These gentlemen represent that they purchased 3 fishing boats at auction, conducted pursuant to the Canadian "buy-back" program, on October 28, 1972, in Delta, British Columbia, Canada. The vessels are subject to the provisions of Public Law 92–601 which was enacted the day prior to the auction. As your constituents point out, a representative from the Seattle office of NOAA attended the hearing to notify prospective bidders of enactment of the law so that they would not be caught unawares by its provisions.

The statute makes it unlawful for any person on board a prohibited vessel to transfer at sea or land in the United States prohibited fish. The terms "prohibited fish" and "prohibited vessel" are defined in section 5 of the Act. "Prohibited fish" means fish "which such (prohibited) vessel was authorized to engage in the catching of. . . ." "Prohibited vessel" is defined as "a vessel of less than 5 net tons which was (a) constructed in a foreign country, (b) used in a fishery of the country, and (c) subsequently prohibited by such foreign country from being used in such fishery. . . ." This is consistent with the views expressed during consideration of the bill by representatives of the Administration. Since the definition of "prohibited vessel" is cast so that the prohibitions which apply to the vessel in the United States would be coextensive with the prohibitions imposed by the foreign country, one must look to the extent of the original foreign authorization and the subsequent prohibition in order to determine the extent of the prohibition in our law. At the time of the auction, we were unable to ascertain the precise terms of the Canadian statute governing the authorization and subsequent prohibition applicable to the boats sold at the "buy-back" auction. We have subsequently determined Category A and Category B vessels of the type sold at the auction are permitted to engage in commercial fishing operations in Canada.

In addition, these vessels only are entitled to be issued a salmon fishing tab which permits a vessel to engage in salmon fishing operations. A Canadian vessel that holds an "A" or "B" category license together with a salmon tab can participate in *all* fisheries in British Columbia. There is no exception to the species that may be fished. This fact has been confirmed by letter of Mr. M. P. Houghton, Chairman of the Salmon Vessel Licensing Committee, to Mr. Donald R. Johnson, our Regional Director, NMFS, Seattle (copy attached). Accordingly, I conclude that the vessels at auction were authorized to engage in any fishery of Canada.

In addition, I note that Canadian law (P.C. 1972—3022, December 19, 1972, which I understand enacted into law the prior emergency regulations which were promulgated at the same time the "buy-back" program went into effect) provides: "Except as authorized by the Minister, no vessel that has been purchased under the buy-back program shall be used in commercial fishing operations, including the collection and transportation of fish."

To sum up, the vessels in question were "authorized to engage in the catching" of all species of fish and were "subsequently prohibited" from being used in any fishery. Therefore, under the terms of the statute the vessels are "prohibited vessels", and the prohibition against the transfer and landing of "prohibited fish" must, according to the definition of that term, apply to all species. Any other interpretation would be contrary to the intent of the legislation.

Sincerely,

JAMES W. BRENNAN,
Acting General Counsel.

JANUARY 29, 1973.

MR. DONALD R. JOHNSON,
Regional Director, U.S. Department of Commerce, National Marine Fisheries Service, Seattle, Wash.

DEAR MR. JOHNSON: This will acknowledge your letter of January 18th requiring further information on the B.C. Salmon Vessel "Buy-Back" Program.

A salmon vessel that holds either an "A" or "B" category license can participate in all other fisheries in British Columbia. There is no exemption to the species they may fish.

I would assume, therefore, that any vessel purchased by the "Buy-Back" Program and subsequently sold to U.S. buyers would not be permitted to be licensed in any maritime fisheries in United States waters. If this is the case, would you kindly advise so that we would be in a position to so instruct future U.S. buyers when further auctions are conducted.

Sincerely,

M. P. HOUGHTON,
Chairman, Salmon Vessel License Committee.

GENOCIDE CONVENTION OPPONENTS REBUTTED

Mr. PROXMIRE. Mr. President, it is unfortunate that the controversy surrounding ratification of the Genocide Convention has persisted for so long. The number of nations who have responsibly ratified the convention is large; the United States is one of a small minority of nations which so far have refused or neglected ratification. This situation must change.

Discussion of this issue is not limited to the Senate. Substantial interest has been raised in many areas across the country. The issue has been fully debated. One of the most effective statements of the reasons we should ratify the convention was published as a letter to the editor in the May 5, 1973, edition of the Milwaukee Journal. The author, Bruno U. Bitker, is a longtime staunch supporter of the convention and the principles it embodies. Mr. President, I ask unanimous consent that the text of this letter be printed in the RECORD.

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

UN GENOCIDE TREATY

To The Journal: A recent letter opposing the United Nations treaty making genocide an international crime, indicates a misunderstanding of the document. The writer asserts that the treaty was "ordered" by the UN. In fact, under the leadership of the United States, it was approved voluntarily by member nations of the UN. No nation is "ordered" to ratify it. The United States signed it in 1948. Since then, 75 sovereign nations throughout the world have ratified it; only the United States, of the big powers, has failed to formally do so, despite urging by presidents from Truman to Nixon. This neglect is a matter of constant confusion to our friends in the international community, and of satisfaction to our enemies.

The treaty seeks to prevent the mass destruction of a wide variety of groups of human beings. The writer objects because it does not also include political groups. Making the mass murder of "a national, ethical, social or religious group as such" obviously includes most of mankind. It is difficult to understand why the extermination of human groups because of their race, their religion or their ethnicity should not be made an international crime.

The writer further objects because the crime covers mental as well as bodily harm. Either method constitutes a crime when it is used "with the intent to destroy" the victimized group. As more forms of torture in World War II, in Asia and Europe are exposed, and as we learn more about "medical experiments" even in current wars, we recognize the need to include mental harm.

It is correct that the treaty requires the accused to "be tried by a competent tribunal of the state" where the crime was committed, or "by such international penal tribunal as may have jurisdiction." Unfortunately, despite the current madness of terrorism in the world, no such international criminal court now exists. However, growing out of conferences recently held at the Johnson Foundation in Racine, a statute has been drafted which would create an international criminal court with power to try those accused of terrorism and genocide and similar internationl crimes. It is needed.

Ratification of the genocide treaty by the United States is long past due.

BRUNO V. BITKER,
Chairman, Governor's Commission on the U.N.

HOSTILITIES IN INDOCHINA

Mr. ABOUREZK. Mr. President, on January 27, 1973, the U.S. Government signed an agreement which we all hoped would lead to the termination of American involvement in hostilities in Indochina and would signal a new era in U.S. policy in Southeast Asia and throughout the world. More than 10 long years of war had taught us something about the bankruptcy of past policies—or so we thought. Recent developments in Cambodia, however, have raised serious questions about the validity of this assumption. These questions, in turn, have fostered serious and justifiable concern that our new directions in Southeast Asia are but past policies recycled. This is an alarming and discomforting revelation. It is one, however, that cannot be easily dismissed.

As the days pass, and the American bombing raids continue, I am becoming increasingly concerned about our involvement in the Cambodian civil war. Just a few short months ago, amidst the atmosphere of relief which accompanied the signing of the Paris accords, we heard hopes of an all-Indochina peace agreement, or at least a de facto ceasefire in Camobdia. These hopes have long since dissipated, and U.S. bombers are currently engaged in some of the heaviest raids of the war. There is little evidence to suggest that any reduction of the U.S. military presence in Cambodia is imminent.

In my view, there is no moral, legal or constitutional justification for the American bombing of Cambodia. Cambodia is not a member of SEATO and has no defense treaty with the United States. The Tonkin Gulf resolution, which President Johnson often cited as his authority to wage war in Indochina, was repealed by Congress in 1971. And the final justification—that U.S. air raids were necessary to protect the lives of American troops in Vietnam—expired when the last U.S. forces left Vietnam at the end of March.

Since that time, representatives of the Nixon administration have conjured up a number of spurious arguments to justify the continued bombing of Cambodia. We have heard the Secretary of Defense contend that this operation constitutes the "winding up of a residual aspect of the Vietnam war." We have heard other administration officials suggest a connection between the bombings and Mr. Nixon's election mandate, whatever that might be. We have heard the Secretary of State argue that the United States is continuing bombing in Cambodia, and elsewhere, to encourage compliance with article XX of the Paris accords, even though Cambodia is not a party to those agreements and even though it is questionable that the North Vietnamese are in fact involved in hostilities in that country.

Despite these and other administration assertions, the inescapable fact remains that American bombers continue to fly their deadly missions over the Cambodian countryside, hoping to influence an internal power struggle which we do not have the ability or the right to control. The bombing cannot stop the war. It cannot determine the outcome. It can only prolong an already untenable, unfortunate, and inhumane situation.

I am afraid that our current activities in Cambodia are sadly reminiscent of our tragic and misguided intervention in Vietnam. Once again, we are providing massive economic and military aid to a regime which is totally lacking in popular support in the hope of maintaining a government which will be favorable to American interests in Southeast Asia. This policy, in my view, is based on false hopes and neglects the essential realities of the Cambodian situation. If we seriously desire to bring an end to the fighting in Cambodia, we should emphasize the diplomacy necessary to bring the peace, not the bombing which will only prolong the war. We will have to take the initiative in fashioning a political settlement which is the prerequisite of any military settlement. Further American disregard of this reality can only bring continued large-scale destruction of human life while offering little hope of preventing the eventual demise of the Lon Nol government.

Unfortunately, there has been no indication that the administration is ready to acknowledge this fact. On the contrary, we now learn that, in the second supplemental appropriation bill for fiscal year 1974, they are asking for more money to "provide the Defense Department with the needed flexibility to cover additional Southeast Asia costs." Upon closer examination, this bill reads ominously like a Gulf of Tonkin authorization for continued bombing in Cambodia. It provides the Pentagon with the authority to transfer $430 million from one Department of Defense account to another, a large portion of which would be used to help pay for the bombing of Cambodia and for other U.S. military operations in Southeast Asia. I fear that passage of this military appropriations bill, in addition to providing funding for our military adventures in Indochina, will enable the administration to point to congressional funding of the war as justification for its military operations in Indochina.

I am encouraged that the Congress is acting to avert this possibility. Just last Thursday, the House of Representatives voted to block the use of Defense Department funds for the continued bombing of Cambodia. And, yesterday, both the Senate Foreign Relations Committee and the Senate Defense Appropriations Subcommittee took action to stop this illegal activity.

I am greatly encouraged by these developments. However, our efforts to stop the bombing cannot end here. We have heard administration officials proclaim that, even if the Congress blocks the Pentagon's request for this transfer authority, the bombing will continue. The arrogance and irresponsibility of this position is most alarming. It should not be tolerated—by the Congress or the American people.

As I read the daily news reports of the rapidly deteriorating situation in Cambodia, my concern about the wisdom of our Cambodian policy only increases. How quickly we seem to forget the lessons of history. How quickly we seem to forget the tragedies of the past.

The President can continue to speak about "peace with honor." He can continue to extol his achievements in Vietnam. His surrogates can continue to insist that his policies in Vietnam, Laos, and Cambodia are the essential fabric of a "lasting structure of peace" in Indochina. Yet, the fact remains that America is still at war in Indochina, and there is apparently no end in sight.

I believe that, as the Congress continues to consider the second supplemental appropriations bill with its controversial transfer authority clause, it is imperative that the United States take a long, hard look at its Indochina policy.

It is time to isolate the substance of this policy from the rhetoric and to examine its premises and contents. I long for real and meaningful peace for Indochina. So, I believe, do the people of Indochina and the United States.

It is fine to talk in terms of national honor. But, there is little honor in the senseless destruction of countryside or in the deprivation of homeless refugees. The message is clear. It is time to take action to truly secure the peace. If the administration is not willing to take this course of action, the Congress must act for them.

LEONARD SPACEK DAY IN CHICAGO

Mr. PERCY. Mr. President, the mayor of the city of Chicago and the city council declared May 12, 1973, "Leonard Spacek Day," commemorating the distinguished service of Leonard Spacek, senior partner of Arthur Anderson & Co. That evening I was pleased to join with other citizens of Chicago in paying tribute to Leonard Spacek on the occasion of his retirement from Arthur Anderson. Various speakers depicted for the leaders of the community who had assembled various aspects of his life—including Leonard Spacek's outstanding contributions through the years to the growth, economically, and culturally, of the city of Chicago, to his contribution as a leading member of the American accounting

profession and to his service to the Nation as well.

Leonard Spacek, as head of Arthur Anderson, has contributed immensely to its present position as the largest public accounting firm in the world, operating in 35 countries with more than 12,000 employees. He has contributed to the educational and cultural life of Chicago and has been a major factor in its philanthropic, charitable, and civic activities.

But the one quality possessed by Leonard Spacek that is more pertinent to the problems of today than any other is that of utter integrity.

It has been my observation in my travels throughout the world, both as a businessman and as a public official, that the ethics and morals of the American business community stand above all others in the world. The American accounting profession has been responsible for helping American business achieve this reputation and no man in the profession has done more to enhance the ethical standards, procedures, and practices of American business management as well as of government than Leonard Spacek.

He has already had a lifetime of accomplishment, but as he retires as active head of a great international business organization, we can all look forward to the many years ahead that he has of public service to his city, State, and country.

I look upon my friendship with him as a valued part of my own life and take great pride in his accomplishments, past, present, and future.

THE PRESIDENT'S RELATIONSHIP WITH CONGRESS: THE VIEWS OF DR. LOUIS FISHER

Mr. HUMPHREY. Mr. President, during this session of Congress, a great deal has been heard about the struggle between Congress and the Executive. There has been discussion and debate about impoundment and line-item type vetoes, the doctrine of executive privilege, the administration's horrendous budget cuts of funds for needed social programs, and the effort by Congress to reform its appropriations process.

Some have called this situation a constitutional crisis. Some have said that the ultimate resolution of conflict will be the U.S. Supreme Court.

In the April 23 issue of U.S. News & World Report, we are presented with one more opinion—and I think it is a particularly excellent one. Dr. Louis Fisher, author of the book "President and Congress" and a leading expert on legislative-Executive relations, is interviewed in the journal.

Mr. Fisher notes:

I think that both Congress and the President have been party to the fiscal situation, and if I had to allocate responsibility, I would place more of it on the administration than on Congress.

The balance of this interview contains information on the background of the crisis and Dr. Fisher's solutions to the various problems at hand. I urge my colleagues to take notice of Dr. Fisher's opinions and I request unanimous consent that the entire text of the interview be printed in the RECORD.

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

POWER STRUGGLE IN WASHINGTON

(Interview with Dr. Louis Fisher, author, and analyst for the Library of Congress)

How serious, in history's perspective, is the widening rift between the White House and Congress? Can it be closed—and, if so, how?

For one view of this problem, "U.S. News & World Report" invited to its conference room a political scientist who has first-hand knowledge of congressional operations.

Q. Dr. Fisher, is the power struggle that is now going on between Congress and the White House really any different from conflicts in the past between the two branches of the Government?

A. This one certainly is different from those of the past. It is becoming a crisis, and I don't know of anyone who can see how it's going to be resolved.

I should make it clear at this point that the views I express here are entirely my own, based on my long interest in this general subject, and in no way do I speak for the Library of Congress.

Q. What kind of crisis do you foresee?

A. We are moving toward a stalemate in Government—we're far too close to one right now—and it could have very serious consequences for the country.

Part of the crisis comes from the fact that some of the programs authorized and funded by Congress are not being carried out by President Nixon and his Administration.

But the more serious part of the crisis, which can have long-term results on the country, is a growing sense in Congress that this is part of a grand design by the Administration to enlarge presidential powers beyond anything yet assumed by Chief Executives of the past.

Q. Why would this produce a crisis in the Government?

A. Because it is destroying the good faith that is essential if the two branches are going to carry out their related functions effectively. You see, there's nothing in the Constitution itself which defines exactly how the two branches are to work together. Always this has been done by self-restraint on both sides in defining the limits of their respective powers.

This factor, throughout most of our history, has made Government more effective. Congress could then give the Administration some discretionary authority in carrying out terms of the legislation to make allowance for administrative or other difficulties that could not be foreseen.

Now we are seeing the Administration, through the Office of Management and Budget, impounding money voted by Congress for specific programs—that is, refusing to release it to the agencies designated by Congress and doing so for political rather than administrative or technical reasons. They do this by abusing the customary discretion given them in the legislation itself.

As a result, Congressmen have to wonder if all legislation is going to be treated this way. There is the ultimate danger that perhaps they will conclude that the only defense is to write the bill in such a rigid and inflexible way as to eliminate discretionary phrasing.

This might curb the practice of impoundment, but it would also reduce efficiency in the spending of that money. And you might go from that to absolute stalemate, to ineffectiveness in Government.

Q. In effect, does impoundment give the President another type of veto over legislation he doesn't like?

A. Yes, that is the effect. It is even more powerful than a veto because Congress lacks a means of overriding an impoundment action.

We have a case in the water-pollution bill that was passed last year over a presidential veto. Here was a clear declaration of congressional insistence on a program on which there had been much deliberation as to what was in the national interest. Yet the President has ordered an impoundment of contract authority that has cut the program by 55 per cent. This was not a mere deferral of spending for technical reasons; it was a political decision by the President that the legislation involved too much "budget busting."

Congress had made a national commitment to clean up the waters. That commitment, unlike earlier ones to build highways or put a man on the moon, has been subordinated to other presidential goals. It isn't a case, as Mr. Ehrlichman [presidential assistant John D. Ehrlichman] has said, that we lack the contractor capability to spend all of the water-pollution money. If you make the commitment, the contractor capability will come—as it did with highways and the space program.

Q. On the other hand, doesn't President Nixon feel that Congress is paying very little attention to his budget?

A. No doubt he does, but his budget is merely a recommendation. There is nothing sacrosanct about it. Congress can alter it and modify any way that Congress wants.

I suppose the President feels that at a time of inflation and tremendous deficits, the economic stakes justify his action. A lot of this reasoning borders on the philosophy that the end justifies the means.

It could be argued that congressional inability to match revenue with appropriations has, in a sense, created a situation where the President felt he had to make these impoundments in order to attain his fiscal goals. On the other hand, the Administration has contributed to deficits through its own spending programs and tax-relief measures, so I don't think the argument is very strong. It was President Nixon who first adopted the "full-employment budget" concept, justifying deficits in the 25-billion-dollar-a-year range.

In short, I think both Congress and the President have been party to the fiscal situation, and if I had to allocate responsibility, I would place more of it on the Administration than on Congress.

Q. Don't people generally tend to blame Congress more than the President when something like this happens?

A. Yes, because Congressmen individually often criticize the performance of Congress as a whole. You don't often see anything like that in the Administration when errors occur in the economic or military realm.

It does no good to repeat the refrain: "Congress has been bad; Congress has been irresponsible." It merely reinforces the view—a distorted one—that Congress is the culprit and the President is the benefactor.

Q. Have any Presidents in the past gotten into trouble over the impoundment issue?

A. Not nearly as much as at present. I recall that during President Truman's Administration, Congress authorized and funded the building of a flush-deck supercarrier. The Administration stopped that program after the keel was laid and went ahead with what he considered to be better-designed carriers. And President Johnson got into some trouble for impounding.

What we are dealing with now, however, is impounding entirely different in nature. It isn't altogether a matter of dollars involved. You could have Administration "A" impounding 10 billion dollars for administrative or technical reasons, and it would be less serious than Administration "B" impounding 5 billion dollars, half of the time

for political reasons—it doesn't like the programs and has no intention of going forward later with the same program or choosing an alternative—and the danger to effective government would be worse.

Q. Do you see any signs that the Administration might back down on the matter of impounding money for approved programs?

A. To the contrary, there is every evidence that it is becoming more aggressive.

Take the program authorized last year by Congress to give financial assistance to returning veterans wanting to go to college or university. This became public law, and 25 million dollars was appropriated, with the Department of Health, Education and Welfare designated to run the program. The interesting thing is that this 25 million dollars has not been "impounded." The Office of Management and Budget has apportioned the money to HEW, but Secretary Caspar W. Weinberger has no immediate intention of implementing the program. Why? Because the Administration has made a request to Congress to rescind the appropriation and will not put the program into effect until Congress acts on that request.

Furthermore, Secretary Weinberger communicated to Senator Jacob K. Javits [Republican, of New York] the news that even if Congress rejected the request to rescind the appropriation for this program, there could be no assurance that the program would go into effect because of the Administration's target for a spending limit of 250 billion dollars for the present fiscal year.

This, to me, seems astonishing, and it's an approach that is being used not only for the program of financial aid to veterans going to college but to other programs. Altogether, I think the total appropriations involved come to 383 million dollars. Here is a very novel kind of "veto power."

For the President to fall back on precedents and say that "Thomas Jefferson did it" does not change the fact that, right or wrong, what he is doing is something much different in nature from past impoundments.

Q. How useful are precedents, generally, in this conflict between the White House and Congress—not only in the use of impoundments but in other exercise of presidential authority such as "executive privilege" to deny information to Congress and use of "executive orders" to achieve legislative results?

A. There are really two difficulties in using precedents:

First, some are very limited in scope and not really applicable outside of very narrow issues.

Second, precedents sometimes lose their acceptability as conditions change. Take, for instance, the many precedents to support malapportionment in the legislatures. After years of accepting these precedents, the Supreme Court in 1962 decided they were no longer acceptable and subsequently ordered reapportionment of voting districts for Congress and State legislatures.

Q. If precedents don't help much, does it then boil down to a matter of what either side thinks it can get away with in extending its powers?

A. That's right. As I said before, it is self-restraint in exercise of separate powers that makes the system workable.

Q. Have there ever been so-called "strong" Presidents who did not engage Congress in heated battles over the exercise of presidential authority?

A. By definition, an assertive President is going to have conflicts with Congress. But these struggles can take place within the system without challenging the system itself. Many Presidents have tried to assert their authority, and many have met with and accepted rebuffs.

Franklin D. Roosevelt tried to change the Supreme Court, and Congress didn't let him get away with it, as one example. He tried to undermine his congressional opposition in the primaries, and didn't get away with that either.

For the tentacles of power to reach out now and then, probing, is in the nature of our system, but the situation today is not just one of "feeling around." It's a frontal challenge to congressional prerogatives.

Q. Many political scientists applauded the "strong" Presidency of John F. Kennedy in the early 1960s. Now they're critical of the "strong" Presidency of Richard M. Nixon. Why?

A. It probably has something to do with the fact that so many academicians are on the liberal Democratic side, and Democrats were in control of the White House for so many years they got used to the idea of "strong" Presidents as inherently better for the nation.

I think there's a lesson to be learned here: that a clear definition of institutional responsibilities is a better way of judging a man's performance than his personality or party. The Senate Foreign Relations Committee noted a few years ago, during action on the National Commitments Resolution, that Congress had committed the error of making a personal judgment as to how President Johnson would implement the Tonkin Gulf Resolution when it actually had a responsibility to make an institutional judgment.

Q. Is a "strong" President likely to become more aggressive when the opposing party is dominant to Congress?

A. I don't think we know about that because it is so recently that the power struggles have intensified. Suppose that a Democrat is elected President in 1976 while the Democrats retain control of Congress. If he keeps all of the national-security machinery that has accumulated in recent Administrations, a lot of the power struggle is going to be built into the system, even if he is dealing with a "friendly" Congress.

Q. What about landslide victories such as those won by Franklin D. Roosevelt, Lyndon Johnson and Richard Nixon? Do they tend to make a President more assertive?

A. There does seem to be considerably more boldness in the second Nixon term than in the first. But I don't know whether that is the result of the landslide or of his lameduck status, where he feels he has nothing to lose because he is constitutionally unable to run for a third term, anyway.

Supposedly his interest in the future health of his party would cause him to be careful, but the 1972 election strongly suggests that he places his own personal success far above that of his party. There was great disappointment by Republicans in the lack of White House support for congressional elections.

Q. Isn't the President—not Congress—supposed to make policy?

A. He contributes, but with the advice and consent of Congress. That's the qualification that is often forgotten, and certainly is not in evidence at the present time. I don't know that the present Administration has sought counsel, for instance, with the chairmen of the Agriculture Committees or of the Agriculture Subcommittees of the Appropriations Committees on impoundments of money for farm programs authorized by Congress.

Q. The President recently said that he spoke for "the national interest," while Congress spoke for "special interests." Would you agree with that statement?

A. Well, there's another aspect to the "special interests"—namely this: In a democratic system, private interests are entitled to the political process. Often they bring useful information and insights to that process for both the executive and legislative branches. So I think it is an exceptionally crude generalization to suggest that the President operates for the "general" interest and Congress for "special interests."

AN ISSUE RIGHT AT THE BEGINNING

Q. In addition to impoundments, what other weapons does a President have in a power struggle with Congress?

A. One type of action is the use of "executive privilege," which became an issue right at the beginning, in the Administration of George Washington.

The House wanted to investigate the American military defeat of General St. Clair [Arthur St. Clair, whose Ohio forces were decimated by Indians in 1791], and President Washington discussed the matter with members of his Cabinet. There was some question whether the papers relating to this defeat should be given to Congress, but in the end they were handed over.

Q. Was that the instance of which President Nixon spoke recently when he said that George Washington set the precedent for exercise of "executive privilege" in withholding information from Congress?

A. Perhaps, or he could have been referring to another instance when the House asked for papers relating to the Jay Treaty [with Great Britain, signed in 1794]. In that case, the President decided not to give the papers to the House. But I don't think this instance is a good precedent either, because the real question was whether the House had a constitutional right to treaty papers which are a matter between the President and the Senate.

In other words, it was an explicit constitutional issue—not one of confidentiality. Washington said that if the House had established a constitutional right such as if it wanted to impeach someone, he would have given them the papers.

Q. Just what is "executive privilege"?

A. President Nixon himself defined it when he said he would use it only for confidential communications between himself and his assistants on matters relating to the national interest—he also used the words "public interest"—and not used in an expansive way simply to protect the Administration from embarrassment.

The question is: How does that principle apply to the Watergate incident? There is the impression, even among Republicans and conservative columnists, that the President's exercise of "executive privilege" relates more strongly to the question of "embarrassment" than of "public interest."

LEGISLATING BY EXECUTIVE ORDER

Q. Can the President, in effect, legislate with an executive order?

A. Yes, and that practice has increased in recent decades. There's no way for me to know the exact situation in the last few years because, while there are clear cases of legislating by executive order—setting up or expanding programs without prior congressional approval—there are many cases, too, of legislating by other means so that they don't have to be published in the "Federal Register" or the "Weekly Compilation of Presidential Documents."

For instance, presidential communications to his subordinates can affect the carrying out of legislation—but Congress isn't even informed of these communications.

Q. Doesn't the pendulum swing back eventually, even to the point where it is Congress that is accused of overreaching its powers?

A. In the past, Congress has occasionally reached out, too—the most notable example of recent times being the investigations of [the late] Senator Joseph McCarthy into the State and Defense Departments.

And not all cases of "reaching out" by Presidents are initiated by the White House. In some instances, you have to decide how much of its came from presidential initiative and how much as a result of delegation of authority by Congress—just as Congress a couple of years ago gave President Nixon the authority to go ahead with the Economic Stabilization Act.

On the whole, I would say that recent Executives tend to initiate the contest for power more often than Congress does.

Q. Did the Founding Fathers foresee this at all? Weren't they fearful of tyranny by a strong Executive?

A. That's a popular but oversimplified idea. Historically it would not hold up. Any fears of executive power the Revolutionary leaders had from their dealings with George III began to recede after 1776, when the Continental Congress not only had to pass laws but administer them and even handle judicial issues.

As a result of that experience, the Constitutional Convention saw the need for a separate executive for reasons of efficiency, accountability and responsibility. But I don't think their experience enabled them to foresee who would become dominant. The executive qualities discussed in "The Federalist" papers—energy, unity, decision, secrecy, dispatch—were what the framers hoped the President would possess, more imaginary than real.

Q. Is the pendulum likely to swing away from the recent emphasis on presidential power?

A. It's a question of how much presidential power is getting built into the system. For instance, back in 1939 the Reorganization Act gave the President six special assistants, who became very close to the President—so close they could claim executive privilege along with the President himself. They did not make policy.

Presidential special assistants are now starting to get their own bureaucracies. Henry Kissinger is developing a staff of 150 or so and beginning to be more of a policy maker than the Secretary of State. President Nixon's successor may introduce some modifications, but basically the setup could continue, whoever his successor is.

Q. What about appointment of key perons such as the Director of the Office of Management and Budget who do not require confirmation by Congress? Should that be changed?

A. I don't know how much more responsive to Congress such persons would be, even if the appointment required Senate approval. The Director of the Central Intelligence Agency is appointed subject to Senate confirmation, but that doesn't assure his responsiveness to congressional queries. And I'm not sure that anything would change much if Roy Ash, the new director of OMB, became subject to confirmation. Still, the budget has such awesome dimensions that Congress has to make the process more responsive to legislative priorities.

WHEN CONGRESS IS DOWNGRADED

Q. Some critics picture Congress as weak and unable to combat presidential authority. Is that a true picture?

A. No. Members of Congress, through their constituents and contacts with private organizations, are kept abreast of current problems. There is a good deal of expertise among men who have not only had a number of years' experience but understand the political system.

Q. Does Congress have the research machinery to match that made available to the Administration by the federal bureaucracy?

A. No, and I do think that Congress ought to have greater access to the reports and expertise generated by the executive branch. Hearings were held last year on Senator Cooper's bill [Senator John Sherman Cooper, Republican, of Kentucky] to make studies on national security and intelligence available to the Foreign Affairs and Foreign Relations Committees.

Q. Do you see any signs of that happening?

A. No, I don't.

Q. Does that mean that Congress then will set up its own research establishment?

A. First, I'd like to see what happens to the bill by Senator Edmund S. Muskie [Democrat, of Maine] which would make the raw budget data from federal agencies available to Congress. It would be a pity if Congress finds that the very agencies it sets up and funds won't give information—including national-security data that is already prepared and could be shared under whatever injunctions of secrecy are necessary.

Q. What about Administration complaints of "leakages" of classified information on Capitol Hill? Is that an obstacle to giving Congress more data from the executive branch?

A. I'm not impressed by that argument. Even if information is disclosed to the Foreign Affairs and Foreign Relations Committees and some staff officials, you may still find that fewer than 100 people get access to that information. Any one of them might leak the information, but so might the thousands of people who have access to it in the executive branch—and they're just as big a risk.

In fact, information leaks are pretty commonplace in the executive branch. To say that Congress can't be trusted is much too arrogant.

Q. Congressmen are always saying they can't get the information they want. Why can't they get it? Are their requests ignored?

A. Here we get into strategies, stratagems and motivations in the executive branch. I'm not in a position to know why information is withheld. I know in my own dealings with federal-agency people that sometimes the information is just not available even to them

Some months ago I spent some time trying to find out about the so-called "feed and forage" laws used by the Pentagon, which has been on the books for a little more than a century. Normally, Congress authorizes and appropriates funds; then the federal agency can obligate the money. But the "feed and forage" law reverses the process. So the Pentagon can obligate the money first; then Congress has to appropriate funds later to liquidate the contractual obligations.

Statistical information on that law had been compiled, then boxed because of storage difficulties and was somewhere around the D.C. area. But whoever knew where it was stored no longer was at the Pentagon, and nobody professed to know where all the information was. I didn't get the sense that they were trying to withhold information; they just didn't know where the material was.

Q. You do get lots of reports from Government agencies—

A. Yes, there's a flood coming down from the executive branch, but often the information is in a form that is of no use to Congress while creating the illusion that the executive branch is making relevant information available to Congress. Staff people on Capitol Hill who look for certain information in computerized reports often just can't find it—and when they call down agency experts to help them look, the agency people can't find it either.

Q. Do you get co-operation occasionally from officials of federal agencies?

A. Oh, yes. They're generally very cooperative.

Perhaps an official feels that his agency will survive better in the budget by co-operating with Congress—and if he believes he can survive politically, he may try it.

However, it's sometimes risky—especially since President Nixon has given so much power to the Office of Management and Budget to control those officials who get out of line.

The former Bureau of the Budget was also subject to presidential control, but the reorganization plans of 1970 changed the situation substantially. All of the former BOB statutory functions were vested in the President, who then redelegated those powers to the OMB.

Instead of merely being an arm of the President, OMB is part of the President. That can have profound effects on professional standards of budget officials.

Q. When you speak of additional presidential powers being built into the system, would that include the tightening presidential control over the entire Administration?

A. I think so. The OMB would have not only Mr. Nixon's personal appointee, Roy Ash, but a number of people, such as Fred Malek and others, who have been on the White House staff. The former Bureau of the Budget certainly was always responsive to the President, but its career professionals were not as politically charged in their judgments as seems to be the case now.

Q. Are you saying that it will be even more difficult to get occasional co-operation from individual officials?

A. You see that happening already, just in the extraordinary case of A. Ernest Fitzgerald, a civil-service employe and management analyst with the Air Force who was laid off in an "economy move" in 1969 after telling Congress about huge cost overruns on the C–5A airplane contract.

Then there was the case of Gordon W. Rule, the contract specialist in the Navy who was shifted out of his job after telling us about costly contract "bail outs" sought by defense contractors who claimed they needed more money to fulfill their obligations. Happily, he has just been reinstated in his job.

But the examples of Fitzgerald and Rule set a tone that will discourage frank and candid judgments by career professionals.

Q. Could Congress strengthen its hand if it had tough discipline and leadership such as that provided by Lyndon B. Johnson in the Senate and Sam Rayburn in the House, rather than the more open and less disciplined leadership of today?

A. There are two aspects of leadership: One involves personality; the other involves the much less explored question of the kind of help that can come from the party caucus which is representative of the party and can participate in the making of policies to be executed by the leader.

LEADERSHIP VERSUS "HORSE TRADING"

Q. Does that, in effect, put 535 legislators—often at odds with each other—against one man who has the prestige of his office, access to the media and a bureaucracy to do his bidding?

A. Yes, it is hard to get half of 535 people to pass a law, or to get two thirds to override a presidential veto. Actually, however, what the party has to do in either house is essentially the same brokerage job—the balancing of interests and "horse trading"—that goes on within the Administration.

Quite often the White House comes out not with what Richard M. Nixon wants but what a galaxy of forces is compelling him to support. The public simply doesn't see the logrolling that goes on among the military services for weapons systems or the competition that goes on within a department for a bigger share of the budget. If it did, the public would be less harsh on Congress.

Q. Are legislators diffident in dealing with presidential authority because they don't want to hinder the President's handling of today's very complex and sometimes overwhelming problems?

A. This undoubtedly explains a lot of the delegation of authority to the President. It's reasonable that if you recognize a need for housing—without knowing exactly how to set up a program for it—you will delegate fairly broad authority to the Administration to get a housing program started. I don't think this is abdication; it's realism.

EXPLODING A "CULT OF EXPERTISE"

Q. Is this especially true in areas of national security?

A. Yes, but I hope that one of the lessons of the past decade has been that even on national security, Congress is quite capable of reaching as sound a judgment as the Administration. The congressional challenge to the Safeguard anti-ballistic-missile system exposed one shortcoming after another and showed the capabilities of Congress in dealing with very technical matters.

I think the "cult of executive expertise" carries less weight today. The Administration has access to expertise, but that is not the same thing as saying that it acts on it. There are numerous examples to show how CIA estimates have been doctored or ignored by the Administration because the information didn't square with political needs.

Q. Are you saying that Congressmen, by and large, are just as knowledgeable as members of the executive branch?

A. Well, if you look at Congress in personnel and product, and apply that yardstick to the executive branch, I think Congress comes off quite well.

Q. Are there giants in Congress to compare with those of the nineteenth century such as John C. Calhoun, Henry Clay and Daniel Webster?

A. I don't know why they're such legendary figures. Anyone looking at Congress today can come up with quite a handful of extremely competent members of the House and Senate who would rival those of any period.

Q. Suppose Speaker Joseph G. Cannon, who ran the House with an iron hand in the early years of this century, were to be on hand today. Could he exercise the same authority?

A. Not with committees as strong as they are. He didn't have to worry as much about the independence of committee chairmen. It's expertise that makes the system go now, because problems today are very complicated. There has to be a division of labor in Congress, just as in the executive branch.

Q. Will broadening the representation in committees strengthen Congress or weaken it?

A. Well, [Missouri] Representative Richard Bolling's Committee on Committees is just starting work, and it could run for a year and a half before a plan is drawn up for committee structure and jurisdiction.

But the reforms adopted by Congress in the last few years—starting with the 1970 Legislative Reorganization Act and including changes in the caucus and floor organization—at least show that Congress is not a rigid institution and can make some very far-reaching reforms.

Q. Is there any way that Congress can frontally challenge presidential power—by going to court, for instance?

A. It could go to court on the issues of impoundment or "executive privilege," but I don't think there is anything the Supreme Court can do to instill the quality of self-restraint and co-operation, which is really what is required to make the system work.

Whatever the Court said quite possibly could be interpreted in whatever way the Administration wanted to interpret it—or the Court's decision might be on very narrow grounds and avoid the larger issues. I suspect this would be the case with impoundment, where there are many different types not easily covered by a general statement. I think also that the Court would be very reluctant to get into a matter which strikes so deeply at administrative discretion. In the question of "executive privilege," you get into equally complex considerations involving national security and confidentiality between the President and his assistants.

Q. Has the Supreme Court ever tackled the issue of impoundment?

A. Four or five years ago I did an article for the "George Washington [University] Law Review" on the Supreme Court cases in the past which were held to be applicable to impoundment. It was my own conclusion that they were not really applicable—that only by singling out little phrases here and there would they seem to deal broadly with the impoundment issue.

There is the Missouri decision last year [upheld April 2 by U.S. Court of Appeals] on impoundment related to highway funds, and this went against the Administration. But even if the Supreme Court sustained that decision, it would be hard to apply to other cases because it deals with trust funds.

An interesting decision was handed down a short time ago in Minnesota regarding Secretary [of Agriculture Earl L.] Butz's termination of the FHA [Farmers Home Administration] emergency-loan program, and that, too, went against the Administration. The court held that Butz had violated due process and the Department's own regulations. This is an important case because it attempts to show where an administrator has discretion and where he doesn't

Q. Does this then leave it to Congress to pass statutes of its own, defining its powers more clearly, and let the executive branch respond as it will?

A. I think that if Congress feels there is a court remedy available for impoundment or "executive privilege," it might postpone action on the matter.

Q. In the last resort, Congress could bring impeachment proceedings.

A. It could. That power is vested in Congress by the Constitution, and this fact should be taken seriously.

The Founding Fathers were uneasy about giving Congress this power because they feared it might jeopardize the President's independence. But they felt that misconduct by the President should be subject to that challenge.

Impeachment is something to be taken seriously and used when necessary. If it were interpreted in that light, an Administration probably would behave in such a way as to avoid the possibility.

"WHAT IS NEEDED IS GOOD FAITH"

Q. Can Congress coerce the White House by withholding funds for Administration housekeeping and other programs?

A. There has been a little bit of this in the past, but I can't see it as more than a short-term effort to restore some of the balance of power.

To me, the remedy has to be recognition on the part of both branches—particularly at this moment, the Administration—of what is needed in a political system where Congress ordinarily must give the executive branch broad chunks of discretionary power.

What is needed, simply, is a good-faith relationship. If the Administration is not willing to abide by that, it is going to generate a lot of inflexibility and rigidity—quite possibly an impasse, as I have said—because it is within the powers of Congress to replace discretionary authority with mandatory directives.

The harmful effects of such a situation could be felt by the American people for years and years.

NEW MINING REGULATIONS

Mr. STEVENS. Mr. President, on April 30 the U.S. Department of the Interior published new mining regulations for coal leases and permits on public, acquired, and Indian lands. These proposed regulations are subject to public comment for a period of 60 days. Because they are of wide interest, I request unanimous consent that they be printed in the RECORD in their entirety and proceeded by a press release summarizing them.

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

PROPOSE CHANGES IN REGULATIONS OF MINING OPERATIONS ON FEDERAL LANDS

A revision of regulations governing mining operations under coal leases and permits on public, acquired, and Indian lands is being proposed by the Department of the Interior, Secretary of the Interior Rogers C. B. Morton announced.

The proposed changes—published in the April 30 Federal Register—"would update the coal mining operating regulations to reflect more fully modern mining practices and administrative procedures," according to Secretary Morton.

He said that public comment on the proposed revision—which would emphasize environmental protection requirements—would be welcome, and that the proposed regulations follow closely those applicable to operations under leases for minerals other than oil and gas and coal which were issued by the Department effective July 1, 1972.

Mining operating regulations are enforced by Area Mining Supervisors of the U.S. Geological Survey's Conservation Division. "Under the revision," Secretary Morton said, "the authority of Survey supervisors would be clarified and strengthened, with the emphasis on directing environmental protection and reclamation."

The proposed revisions are primarily designed to provide coal operators a better understanding of their responsibilities for protection of the surface, the natural resources, the environment, existing improvements, and for timely reclamation of disturbed lands.

After publication of the proposed regulations in the Federal Register, there will be a period of 60 days during which interested parties may submit any comments on the proposed rules. Written statements may be submitted to the Director, U.S. Geological Survey, Washington, D.C. 20244.

DEPARTMENT OF THE INTERIOR, GEOLOGICAL SURVEY [30 CFR PARTS 211, 216]

COAL MINING OPERATING REGULATIONS: PROPOSED REVISION

Notice is hereby given that pursuant to the authority vested in the Secretary of the Interior under the Mineral Leasing Act of February 25, 1920, as amended and supplemented (30 U.S.C. 181–287), the Mineral Leasing Act for Acquired Lands (30 U.S.C. 351–359), 5 U.S.C. 301, the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4347), and various statutes relating to mining on Indian lands, it is proposed to revise 30 CFR part 211 as set forth below.

The primary purpose of the proposed revision is to update the regulations governing operations conducted under coal leases, permits, and licenses, on public domain and acquired lands of the United States and on Indian lands administered by the Department of the Interior by deleting obsolete material and including new provisions and requirements consistent with modern mining practices. The revised regulations clarify the responsibility of lessees, permittees, and licensees for the protection of the surface, the natural resources, the environment and existing improvements during operations for the discovery, testing, development, mining, and preparation of coal and for timely reclamation of disturbed lands.

It is also proposed that 30 CFR part 216, applicable to coal mining operations under leases in the State of Alaska which were issued pursuant to the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741), prior to its repeal by Public Law 86–252, September 9, 1959, 73 Stat. 490, be revoked and that operations under those leases also be governed by the regulations in 30 CFR part 211 as set forth below.

It is the policy of the Department of the Interior, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, interested

parties may submit written comments, suggestions, or objections with respect to the proposed revision of 30 CFR part 211 and the proposed revocation of 30 CFR part 216 to the Director, U.S. Geological Survey, Washington, D.C. 20244, on or before June 29, 1933. After the period for comments has expired, the proposed regulations will be revised, if deemed necessary, and republished in the Federal Register as interim regulations.

The Department of the Interior is currently conducting an environmental review of the coal leasing program. The Council on Environmental Quality has recommended that regulations for the effective management and protection of the public lands be promulgated to serve as interim regulations pending completion of that environmental review. The revision of 30 CFR part 211 presently proposed is essential for effective management and protection of the public lands. The delay which would be occasioned by the preparation of a separate environmental statement related solely to the proposed regulations or the withholding of promulgation until an environmental statement on the coal leasing program is completed would create a period during which effective management and protection of the public land would be hindered. The proposed regulations are not fundamentally new regulations, but are essentially the existing regulations already applicable to the same mineral resources and land, reorganized, clarified, and, in some respects, amplified. Moreover, the interim nature of the proposed regulations would limit their overall cumulative impact on the quality of the human environment. Accordingly, the proposed regulations are published without the preparation of an environmental statement. When the review and statement on the coal leasing program are completed, the regulations in effect at that time will be revised to conform with the conclusions of the review.

Part 211 of title 30 of the Code of Federal Regulations is revised to read as follows:

PART 211—COAL-MINING OPERATING REGULATIONS

ADMINISTRATION OF REGULATIONS AND DEFINITIONS

Sec.
211.1 Scope and purpose.
211.2 Definitions.
211.3 Responsibilities.
211.4 General obligations of licensees, permittees and lessees (including designated operators or agents).
211.5 Public inspection of records.
211.6 Appeals.

MAPS AND PLANS

211.10 Exploration, mining and reclamation plans.
211.11 Approaching oil, gas or water wells.
211.12 Mine maps.
211.13 Failure of lessee to furnish maps.

PROSPECTING AND EXPLORATION OPERATIONS

211.20 Information required to be submitted.
211.21 Core or test holes.

WELFARE AND SAFETY

211.25 Sanitary, welfare and safety arrangements.

MINING METHODS AND MINE ABANDONMENT

211.30 Good practice to be observed.
211.31 Ultimate maximum recovery.
211.32 Multiple seam mining.
211.33 Advance workings; underground mines.
211.34 Pillar extraction.
211.35 Pillars left for support.
211.36 Development of leased tract through adjoining mines.
211.37 Surface or open pit mining.
211.38 Mining isolated blocks of nonleased coal.
211.39 Mine abondonment; surface openings.

PROTECTION AGAINST MINE HAZARDS

211.40 Abandonment of underground workings.
211.41 Flammable gas and coal dust.
211.42 Approaching abandoned workings.
211.43 Fire protection and prevention.
211.44 Alternate source of power for main mine fans.

WASTE FROM MINING

211.51 Disposal of mine wastes or rejects.

PRODUCTION RECORDS, ROYALTY AND AUDITS

211.60 Production records.
211.61 Basis for royalty computation.
211.62 Production reports and payment—other reports.
211.63 Audits.

INSPECTION, ISSUANCE OF ORDERS, AND ENFORCEMENT OF ORDERS

211.70 Inspection of underground and surface conditions.
211.71 Issuance of notices, instructions and orders.
211.72 Enforcement of orders.

AUTHORITY.—34 Stat. 539, 35 Stat. 312 (25 U.S.C. 355 NT); 35 Stat. 781 (25 U.S.C. 396); sec. 32, 41 Stat. 450 (30 U.S.C. 189); 49 Stat. 1967 (25 U.S.C. 501, 502); 52 Stat. 347 (25 U.S.C. 396 (a–f); 61 Stat. 915 (30 U.S.C. 359); 5 U.S.C. 301; Public Law 91–190, 83 Stat. 852 (42 U.S.C. 4321).

§ 211.1 Scope and purpose.

(a) The regulations in this part shall govern operations for the discovery, testing, development, mining, and preparation of coal under coal leases, licenses, and permits issued for public domain and acquired lands pursuant to the regulations in 43 CFR group 3500 and the Alaska Coal Leasing Act of October 20, 1914 (38 Stat. 741). These regulations shall also apply to operations for the discovery, testing, development, mining, and preparation of coal in tribal and allotted Indian lands under leases and permits issued under the regulations in 25 CFR parts 171, 172, 173, and 174.

(b) The purpose of the regulations in this part is to promote orderly and efficient prospecting, exploration, testing, development, mining, and preparation operations and production practices without waste or avoidable loss of coal or other mineral-bearing formation; to encourage maximum recovery and use of coal resources; to promote operating practices which will avoid, minimize or correct damage to the environment—land, water, and air—and avoid, minimize or correct hazards to public health and safety; and to obtain a proper record and accounting of all coal produced.

(c) These regulations will be interpreted and administered to the fullest extent possible in accordance with the policies of the National Environmental Policy Act of 1969 (83 Stat. 852) 42 U.S.C. 4321–4347.

(d) When the regulations in this part relate to matters included in the regulations in 25 CFR part 177—Surface Exploration, Mining and Reclamation of Lands—pertaining to Indian lands, the regulations in that part shall govern to the extent of any inconsistencies.

(e) When the regulations in this part relate to matters included in the regulations in 43 CFR part 23, the regulations in that part shall govern with respect to technical examinations, issuance or denial of leases, performance bonds, reclamation of land, and reports to the extent of any inconsistencies; otherwise, the regulations in this part shall govern.

§ 211.2 DEFINITIONS.

The terms used in this part shall have the following meanings:

(a) *Secretary.*—The Secretary of the Interior.

(b) *Director.*—The Director of the U.S. Geological Survey, Washington, D.C.

(c) *Division Chief.*—The Chief of the Conservation Division, U.S. Geological Survey, Washington, D.C.

(d) *Regional Manager.*—The Regional Conservation Manager, Conservation Division, U.S. Geological Survey.

(e) *Mining Supervisor.*—The Area Mining Supervisor, Conservation Division, U.S. Geological Survey, a representative of the Secretary, subject to the direction and supervisory authority of the Director, the Division Chief, and the appropriate Regional Manager, authorized and empowered to regulate operations and to perform other duties prescribed in the regulations in this part, or a subordinate acting under his direction.

(f) *Lessee.*—Any person or persons, partnership, association, corporation, or municipality to whom a coal lease is issued subject to the regulations in this part, or an assignee of such lease under an approved assignment.

(g) *Permittee.*—Any person or persons, partnership, association, corporation, or municipality to whom a coal prospecting permit is issued subject to the regulations in this part, or as assignee of such permit under an approved assignment.

(h) *Licensee.*—Any individual, association of individuals, or municipality to whom a coal license is issued subject to the regulations in this part.

(i) *Leased lands, leased premises, or leased tract.*—Any lands under a coal lease and subject to the regulations in this part.

(j) *Permit lands.*—Any lands under a coal prospecting permit and subject to the regulations in this part.

(k) *Operator.*—A lessee, permittee, or licensee, or one conducting operations on lands under the authority of the lessee, permittee, or licensee.

(l) *Reclamation.*—The measures undertaken to bring about the necessary reconditioning or restoration of land or water that has been affected by exploration, testing, mineral development, mining, onsite processing operations, or waste disposal, in ways which will prevent or control onsite or offsite damage to the environment.

(m) *Coal.*—Coal of all ranks from lignite to anthracite.

(n) *Mine.*—An underground or surface excavation and all parts of the property of a mining plant, either on the surface or underground, that contribute directly or indirectly to the mining and preparation of coal.

(o) *Preparation.*—The sizing, cleaning, drying, mixing, and crushing of the coal and such other work of preparing coal for market.

(p) *Portal.*—Any surface entrance to an underground mine.

(q) *Entry.*—An underground passage used for haulage, ventilation, or as a manway.

(r) *Shaft.*—A mine opening, the axis of which is approximately vertical, extending from the surface to develop one or more coal deposits.

(s) *Slope.*—A mine opening or inclined entry in a dipping coal formation or an inclined tunnel through rock to intersect a coal bed.

(t) *Drift.*—A mine opening or horizontal entry or passage underground.

(u) *Stripping operation.*—The term "stripping operation" or "strip pit" or "open pit" shall mean a mining excavation or development by means of a surface pit in which material over the coal bed is first removed and the coal itself is then extracted.

(v) *Explosive dust.*—An explosive dust is a combustible solid in airborne dispersion capable of propagating flame when ignited.

(w) *Flammable and explosive gases.*—A mixture of atmospheric air and combustible natural gases in such proportions that the mixture is flammable or explosive.

§ 211.3 Responsibilities.

(a) Subject to the supervisory authority

of the Secretary, the regulations in this part shall be administered by the Director of the Geological Survey.

(b) The health and safety of miners engaged in mining operations on lands covered by coal leases, permits and licenses is governed by the Federal Coal Mine Health and Safety Act of 1969.

(c) The Mining Supervisor is empowered to regulate prospecting, exploration, testing, development, mining, and preparation operations under the regulations in this part. The Mining Supervisor in the performance of his duties shall:

(1) *Inspection and supervision of operations to prevent waste or damage.*—Examine frequently the lease, permit, or license lands where operations for the discovery, testing, development, mining, or preparation of coal are conducted or are to be conducted; inspect and regulate such operations, including operations at accessory plants, for the purpose of preventing waste of mineral substances or damage to formations and deposits, or nonmineral resources affected by the operations; and insure that the terms and conditions of the permit, lease, or license and the provisions of the approved exploration or mining plans are being complied with.

(2) *Compliance with regulations, lease, permit, or license terms; and approved plans.*—Require operators to conduct their operations in compliance with the provisions of applicable regulations, the terms and conditions of the leases, permits, or licenses, and the requirements of approved exploration or mining plans.

(3) *Reports on condition of lands and manner of operation; recommendations for protection of property.*—Make reports to the division chief through the regional manager, as to the general condition of lands under permit, lease, or license and the manner in which operations are being conducted and orders or instructions are being complied with; and submit information and recommendations for protecting the coal, the coal-bearing formations, other minerals and the nonmineral resources.

(4) *Manner and form of records, reports and notices.*—Prescribe, subject to the approval of the division chief, the manner and form in which records of operations, reports and notices shall be made.

(5) *Records of production; rentals and royalties.*—Obtain and check the records of production of coal; determine rental and royalty liability of lessees, and permittees; collect and deposit rental and royalty payments; and maintain rental and royalty accounts.

(6) *Suspension of operations and production.*—Act on applications for suspension of operations or production or both filed pursuant to 43 CFR 3503.3.2(e), and terminate, when appropriate, suspensions which have been granted; and transmit to the Bureau of Indian Affairs for appropriate action applications for suspension of operations or production or both under leases on Indian lands.

(7) *Cessation and abandonment of operations.*—Upon receipt of a report of cessation or abandonment of operations, or relinquishment of a lease, permit or license, inspect and determine whether the operator has complied with the terms and conditions of the permit or lease and the approved exploration or mining plans; and determine and report to the agency having administrative jurisdiction over the lands when the lands have been properly conditioned for abandonment. The mining supervisor, in accordance with applicable regulations, in 43 CFR part 23 or 25 CFR part 177, will consult with, or obtain the concurrence of the authorized officer of the agency having administrative jurisdiction over the lands with respect to compliance by the operator with the surface protection and reclamation requirements of the lease or permit and the exploration or mining plan.

(8) *Wells or prospect holes.*—Prescribe or approve the methods of protection from wells or prospect holes drilled for any purpose through the coal measures and mines on leased lands and on coal lands subject to lease, with a view to the prevention of leakage of oil, gas, water, or other fluid substances that might endanger the life or health of employees, and prescribe or approve methods of obtaining the ultimate extraction, so far as practicable, of coal in the vicinity of such wells.

(9) *Trespass; involving removal of coal deposits.*—Report to the agency having administrative jurisdiction over the lands any trespass that involves removal of coal deposits.

(10) *Water and air quality.*—Inspect exploratory and mining operations to determine the adequacy of water management and pollution control measures for the protection and control of the quality of surface and ground water resources and the adequacy of emission control measures for the protection and control of air quality.

(11) *Compliance with regulations*—Issue such orders and instructions, not in conflict with the laws of the State in which the leased or permit lands are situated, as necessary to assure compliance with the purposes of the regulations in this part.

(d) In the exercise of his jurisdiction under the regulations in this part, the mining supervisor shall be subject to the direction and supervisory authority of the division chief, and the appropriate regional manager, each of whom may exercise the jurisdiction of the mining supervisor.

§ 211.4 General obligations of licensees, permittees and lessees (including designated operators or agents).

(a) Operations involving the discovery, testing, development, mining, or preparation of coal shall conform to the provisions of the applicable regulations, the terms and conditions of the lease, permit or license; the requirements of approved exploration or mining plans; and the orders and instructions issued by the mining supervisor. The operator shall take precautions to prevent waste and damage to coal-bearing formations, and shall take such steps as may be needed to prevent injury to life or health and to provide for the health and welfare of employees.

(b) The operator shall take such action as may be needed to avoid, minimize, or repair soil erosion; pollution of air; pollution of surface or ground water; damage to vegetative growth, crops, or timber; injury or destruction of fish and wildlife and their habitat; creation of unsafe or hazardous conditions; and damage to improvements, whether owned by the United States, its permittees, licensees or lessees, or by others; and damage to recreational, scenic, historical, and ecological value of the land. The surface of leased or permit lands shall be reclaimed in accordance with the terms and conditions prescribed in the lease or permit and the provisions of the approved exploration or mining plan. Good "housekeeping" practices shall be observed at all times. Where any question arises as to the necessity for or the adequency of an action to meet the requirements of this paragraph, the determination of the mining supervisor shall control.

(c) All operations conducted under the regulations in this part must be consistent with Federal and State water and air quality standards.

(d) When the mining supervisor determines that a water pollution problem exists, he may require that a lessee, permittee, or licensee maintain records of the use of water, quantity and quality of waste water produced, and the quantity and quality of waste water disposal, including mine drainage discharge, process wastes and associated wastes. In order to obtain this information, the lessee, permittee, or licensee may be required to install a suitable monitoring system.

(e) Full written reports of accidents, inundations, or fires shall be promptly made to the mining supervisor by the operator or his representative. Fatal accidents, accidents threatening damage to the mine, the lands or the deposits, or accidents which could cause water pollution shall be reported promptly to the mining supervisor by telephone. Reports required by this section shall be in addition to those required by part 80 of this title, or other applicable regulations.

(f) Lessees and permittees shall submit the reports required by 25 CFR part 177 and part 200 of this chapter.

(g) If the operator fails to take appropriate action to protect the mine, coal deposits, or surrounding environment from damage or threatened damage by fire, water, oil, gas, subsidence, or other hazards, or fails to protect properly the mine or deposits or eliminate hazards to the public, upon abandonment or cancellation of a lease, permit, or license shall be liable for the expense of labor and supplies used by, or under the direction of the mining supervisor for the protection of the property and elimination of hazards to the public.

§ 211.5 Public inspection of records.

Geological and geophysical interpretations, maps, and data and commercial and financial information required to be submitted under this part shall not be available for public inspection without the consent of the permittee or lessee so long as the permittee or lessee furnishing such data, or his successors or assignees, continues to hold a permit or lease of the lands involved.

§ 211.6 Appeals.

Orders or decisions issued under the regulations in this part may be appealed as provided in part 290 of this chapter.

MAPS AND PLANS

§ 211.10 Exploration, mining and reclamation plans.

(a) *General.*—Before conducting any operations, the operator shall submit to the Mining Supervisor for approval an exploration or mining plan, in quintuplicate, which shall show in detail the proposed exploration, prospecting, testing, development, or mining operations to be conducted. Exploration and mining plans shall be consistent with and responsive to the requirements of the lease or permit for the protection of nonmineral resources and for the reclamation of the surface of the lands affected by the operations. The Mining Supervisor shall consult with the other agencies involved, and shall promptly approve the plans or indicate what modifications of the plans are necessary to conform to the provisions of the applicable regulations and the terms and conditions of the permit or lease. No operations shall be conducted except under an approved plan.

(b) *Exploration plans.*—The Mining Supervisor may require that an exploration plan include any or all of the following:

(1) A description of the environmental conditions within the area where exploration is to be conducted and a general description of the regional environmental conditions.

(2) A narrative description including:

(i) Method of exploration.

(ii) Measures to be taken to prevent or control fire, soil erosion, pollution of surface and ground water, pollution of air, damage to fish and wildlife or their habitat, or other natural resources and hazards to public health and safety.

(iii) Method for plugging drill holes.

(iv) Method for reclaiming lands disturbed

by the exploration work, including grading, leveling and revegetation.

(3) Estimated timetable for each phase of the work and for final completion of the program.

(4) Five copies of a suitable map or aerial photograph showing topographic, cultural and drainage features, and the proposed location of drill holes, trenches, access roads, etc.

(c) *Mining plans.*—The Mining Supervisor may require that a mining plan include any or all of the following:

(1) A description of the environmental conditions within the area where mining is to be conducted and a general description of the regional environmental conditions.

(2) A narrative description including:

(i) Nature and extent of the coal deposit.

(ii) Method of mining including mining sequence and production rate.

(iii) Measures to be taken to prevent or control fire, soil erosion, pollution of surface or ground water, pollution of air, damage to fish and wildlife or their habitat or other natural resources, and hazards to public health and safety.

(iv) Method for disposal of refuse, waste or overburden, including location, design to prevent erosion, water pollution, and dump failure.

(v) Design for the necessary impoundment, treatment or control of all runoff water and drainage from mine workings and preparation plants so as to reduce soil erosion and prevent the pollution and increased sedimentation of watercourses.

(vi) The surface reclamation portion of the plan shall include:

(*a*) A reclamation schedule.

(*b*) Method of grading, backfilling and contouring.

(*c*) Method of soil preparation and fertilizer application.

(*d*) Type and mixture of shrubs, trees, grasses, or legumes to be planted.

(*e*) Method of planting, including amount of spacing.

(*f*) Method of abandoning mine openings, including mine portals, shafts, slopes and entries.

(3) Five copies of suitable maps or aerial photographs showing:

(i) Topographic, cultural and drainage features, roads and vehicular trails.

(ii) Cross sections of the deposit.

(iii) Size and locations for mine and surface structures and facilities.

(iv) Location of refuse and waste disposal areas.

(v) Location of settling or water treatment ponds.

(vi) For a surface mine, the planned mine layout map including the coal-outcrop line and a line indicating the limits to which the mining is expected to extend.

(vii) For an underground mine, the planned mine layout map including locations of shafts, slopes, drifts, main haulageways, aircourses, entries, and barrier pillars; and the proposed widths of all slopes, entries, haulageways, aircourses, rooms, crosscuts and barrier pillars.

(d) *Changes in plans.*—Exploration and mining plans may be changed by mutual consent of the Mining Supervisor and the operator at any time to adjust to changed conditions or to correct an oversight. To obtain approval of a changed or supplemental plan, the operator shall submit a written statement of the proposed changes or supplement and the justification for the proposed changes.

(*e*) *Partial plan.*—If the circumstances warrant, or if development of an exploration or mining plan for the entire operation is dependent upon unknown factors which cannot or will not be determined except during the progress of the operations, a partial plan may be approved and supplemented from time to time. The operator shall not, however, perform any operation except under an approved plan.

§ 211.11 Approaching oil, gas, or water wells.

When mining operations approach within 200 ft. of wells or bore holes that may liberate oil, gas, water, or other fluid, substances, the lessee shall present his plans for mining the coal in proximity to such holes to the Mining Supervisor and obtain his approval before proceeding with the work planned. The plans shall provide that the coal be extracted as completely as practicable with safety and in such manner that the well will not be damaged, and that precautions be taken against the sudden liberation of a body of oil, gas, water, or other fluid. In approaching such holes, the instructions in § 211.42 shall be followed.

§ 211.12 Mine maps.

(a) *General requirements.*—The operator shall maintain an accurate and up-to-date map of the mine, drawn to a scale acceptable to the Mining Supervisor. All maps shall be appropriately marked with reference to Government landmarks or lines and elevations with reference to sea level. Copies of such maps shall be properly posted to date and furnished, in duplicate, to the Mining Supervisor annually or at such other times as he deems necessary. Before any mine or section of a mine is abandoned, closed, or made inaccessible, a survey of such mine or section shall be made and recorded on the map. All excavations in each separate bed shall be shown in such a manner that the production of coal for any royalty period can be accurately ascertained. Additionally, the map shall show the name of the mine, the name of the lessee, the Land Office serial number, the lease boundary lines, surface buildings, dip of the coalbed, true north, the map scale, an explanatory legend, and such other information as the Mining Supervisor shall request.

(b) *Underground mine maps.*—Underground mine maps shall, in addition to the general requirements of paragraph (a) of this section, show all mine workings; the date of extension of the mine workings, and a coal section at each entry face; the location of all surface mine fans; the position of all fire walls, dams, main pumps, fire pipelines, permanent ventilating stoppings, doors, overcasts, permanent seals, and regulators; the direction of the ventilating current in the various parts of the mine at the time of making the latest surveys; sealed areas; known bodies of standing water either in or above the workings of the mine; areas affected by squeezes; the elevations of surface and underground levels of all shafts, slopes or drifts; and the elevation of the floor or bottom of the mine workings at regular intervals in main entries, panels or sections, sump areas, etc.

(c) *Surface mine maps.*—Surface mine maps shall, in addition to the general requirements of paragraph (a) of this section, show the date of extension of the mine workings and a coal section at each working face; all worked-out areas; the stripped but unmined coalbed; and the elevation of the top of the coalbeds and the surface.

(d) *Profiles of steeply dipping beds; vertical views of workings.*—When required by the mining supervisor, vertical projections and cross sections shall accompany plan views of steeply dipping beds.

(e) *Other maps.*—The operator shall prepare such other maps of the leased lands as in the judgment of the mining supervisor are necessary to show the surface boundaries; location, surface elevation, depth, and thickness of the coal, and total depth of each bore hole; improvements; reclamation completed; topography, including subsidence resulting from mining; and the geological conditions as determined from outcrops, drill holes, exploration or mining.

(f) *Accuracy of maps.*—The accuracy of maps furnished shall be certified by a professional engineer, professional land surveyor, or other professionally qualified person.

§ 211.13 Failure of lessee to furnish maps.

(a) *Liability of lessee for expense of survey.*—If the operator fails to furnish a required map, the mining supervisor shall employ a competent mine surveyor to make a survey and a map of the mine, the cost of which shall be charged to and promptly paid by the operator.

(b) *Incorrect maps.*—If any map submitted by an operator is believed to be incorrect, the mining supervisor may cause a survey to be made. If the survey shows the map submitted by the lessee to be substantially incorrect in whole or in part, the cost of making the survey and preparing the map shall be charged to and promptly paid by the operator.

PROSPECTING AND EXPLORATION OPERATIONS

§ 211.20 Information required to be submitted.

The operator shall submit promptly to the mining supervisor upon request, completion, suspension of prospecting or exploration operations, or as provided in the leases and permits, signed copies, in duplicate, of records of all prospecting operations performed on the lease or permit lands along with vertical cross sections through the land and a map showing the exact location of coal outcrops, all drill holes, trenches and other prospecting activities. The records shall include a log of all strata penetrated and conditions encountered, such as water, quicksand, gas, or any unusual conditions; copies of all other in-hole surveys, such as electric logs, gamma ray-neutron logs, sonic logs or any other logs produced; and copies of analyses and results of other tests conducted on the land. All drill holes, trenches and excavations will be logged under the supervision of a competent geologist or engineer. Unless otherwise authorized by the mining supervisor, the core and cuttings from test holes shall be retained by the operator for 1 year and shall be available for inspection at the convenience of the mining supervisor. The mining supervisor may sample such parts of the core and cuttings as he deems advisable.

§ 211.21 Core and test holes.

(a) *Abandonment.*—Drill holes, trenches and other excavations for development or prospecting shall be abandoned in a manner to protect the surface and not to endanger any present or future underground operation or any deposit of oil, gas, other mineral substances, or water strata. Methods of abandonment shall be by backfilling, cementing or capped casing, or both, or by other methods approved in advance by the mining supervisor.

(b) *Surveillance wells.*—With the approval of the mining supervisor, drill holes may be utilized as surveillance wells for the purpose of determining the effect of subsequent operations upon the quantity, quality, or pressure of ground water or mine gases.

(c) *Blowout control devices.*—When drilling on lands valuable or potentially valuable for oil and gas or geothermal resources, the drilling equipment shall be equipped with blowout control devices acceptable to the mining supervisor before penetrating more than 100 feet of consolidated sediments unless a greater depth is approved in advance by the mining supervisor.

(d) *Use of wells by others.*—Upon receipt of a written request from the surface owner or surface administering agency, the mining supervisor may approve the transfer of an exploratory well for further use as a water well. Approval of such well transfer will be accompanied by a corresponding transfer of responsibility for any liability for damage and eventual plugging.

WELFARE AND SOCIETY

§ 211.25 Sanitary, welfare, and safety arrangements.

The underground and surface sanitary, welfare, health, and safety arrangements shall be in accordance with the regulations of the U.S. Public Health Service and the applicable standards in chapter 1 of this title.

CROSS REFERENCE—For regulations of the U.S. Public Health Service, Department of Health, Education, and Welfare, see CFR chapter 1.

MINING METHODS AND MINE ABANDONMENT

§ 211.30 Good practice to be observed.

The operator shall observe good practice following the highest standards in prospecting, exploration, testing, development and mining, sinking wells, shafts, and slopes, driving drifts and tunnels, blasting, the use of explosives, timbering, pumping, reclamation, and other activities on the leased or permit lands.

§ 211.31 Ultimate maximum recovery.

(a) *Maximum recovery and protection for future use.*—Mining operations shall be conducted in a manner to yield the ultimate maximum recovery of the coal deposits, consistent with the protection and use of other natural resources, sound economic practice, and the protection and preservation of the environment—land, water and air.

(b) *No available coal to be abandoned.*—The lessee shall not leave or abandon any coal which otherwise could be safely recovered by approved methods of mining when in the regular course of mining operations the time shall arrive for mining such coal. No entry, level, or panel workings in which the pillars have not been completely extracted within safe limits shall be permanently abandoned and rendered inaccesible, except with the written approval of the mining supervisor.

§ 211.32 Multiple seam mining.

(a) *Sequence of mining.* In general, the available coal in the upper beds shall be worked out before the coal in the lower beds is mined. Simultaneous workings in an upper coalbed shall be kept in advance of the workings in each lower bed. The mining supervisor may authorize mining of any lower beds before mining the available coal in each known upper bed.

(b) *Protective barrier pillars in multiple-seam mining.*—In areas subject to multiple seam extraction, the protective barrier pillars for all main and secondary slope entries, main haulageways, primary aircourses, bleeder entries and manways in each seam shall be superimposed regardless of vertical separation or rock competency; however, modifications, exemptions, or variations of this requirement may be approved in advance by the mining supervisor.

§ 211.33 Advance workings; underground mines.

(a) *Limits for removing coal.*—Where the room and pillar or other system of mining requires advance working in solid coal, including entries, rooms, and crosscuts or breakthroughs, the lessee, except with the written consent of the mining supervisor, shall not extract by such advance workings or first mining more than 60 percent of the total area of the coalbed within any particular tract or panel entered by said advance workings where the cover is less than 500 feet; nor more than 50 percent where the cover is more than 500 feet and less than 1,000 feet; nor more than 40 percent where the cover is more than 1,000 and less than 1,500 feet; nor more than 30 percent where the cover is more than 1,500 feet and less than 2,000 feet; nor more than 20 percent where the cover is more than 2,000 feet. The mining supervisor may require a greater percentage to be left where unfavorable roof or floor conditions prevail or where the coalbed is or may be affected by mining elsewhere.

(b) *Pillar size and shape.*—During development, the size and shape of the pillars will be determined by the depth of cover, heights of coal, proposed method of pillar recovery and other conditions associated with the coalbed. The pillars will be of uniform size and shape insofar as is possible and the smallest dimension shall not be less than 20 feet.

(c) *Basis for computing percentage of tract to be mined.*—The percentage of the total area of the coalbed in a tract to be mined on advance mining shall be computed on the basis of the area and not on the basis of the calculated available tonnage.

§ 211.34 Pillar extraction.

(a) The pillar recovery plan must be approved in advance by the mining supervisor.

(b) Where full pillar recovery is undertaken, extraction shall be such as to allow total caving of the main roof in the pillared area.

(c) Pillars of substantial size which must be abandoned prematurely due to safety considerations must be drilled and shot, if possible, to reduce their size so as to minimize undue forces overriding the working places.

(d) Pillaring methods shall be designed to eliminate pillar points and pillars that project in by the break line.

(e) The overall pillar recovery system shall be designed to minimize the possibility of outbursts, bounces and squeezes.

§ 211.35 Pillars left for support.

(a) *Shaft, entry and slope pillars.*—A pillar proportionate in size to the depth below the surface and the thickness of coal being extracted shall be left in each coalbed for the support of each shaft, main slope, main entry and main aircourse.

(b) *Shaft pillar size.*—Shaft pillars shall be not less in radius than one-half the thickness of cover over the pillar, but not less than 100 feet in radius.

(c) *Slope, main haulage and main aircourse pillar size.*—A pillar width not less than one-fourth of the thickness of cover above it shall be left on each side of the main slope entry system, main haulage entry system and/or main aircourse system. The pillar width will be determined by the maximum depth of the cover anticipated.

(d) *Openings in shaft and slope pillars.*—Shaft and slope landings, sidings, and entries for haulage, ventilation, manways, and shops may be excavated in a pillar provided the area of such places does not exceed 15 percent of the area of the pillar and that no rooms or other openings are made therein for the sole purpose of obtaining quick production.

(e) *Barrier pillars.*—The operator shall not, without the prior consent of the mining supervisor, mine any coal, drive any underground workings, or drill any lateral boreholes within 50 feet of any of the outside boundary lines of the leased lands, nor within such greater distance of said boundary lines as the mining supervisor may prescribe. Payment up to and including the full value of the coal mined may be required for coal mined within such designated distances of the boundary without the written consent of the mining supervisor.

(f) *Lessee may be required to mine barrier pillars on adjacent lands.*—If the coal on land covered by these regulations beyond any barrier pillar has been worked out and the water level beyond the pillar is below the lessee's adjacent operations, the lessee shall, on the written demand of the mining supervisor, mine out and remove all available coal in such barrier, both in the lands covered by the lease and in the adjoining premises, if it can be mined without hardship to the lessee. Authorization of the mining supervisor shall constitute a modification of the lease to include the necessary land.

(g) *Privately owned coal on adjoining premises.*—If the coal mining rights in adjoining premises are privately owned and this coal has been worked out, an agreement may be made with the coal owner for the extraction of the coal remaining in the boundary pillars which otherwise may be lost.

§211.36 Development of leased tract through adjoining mines.

An operator may mine leased land from an adjoining underground mine on land privately owned or controlled or from adjacent leased lands, under the following conditions:

(a) The entire mine and operations therein including that part on land privately owned or controlled shall conform to all the regulations in this part.

(b) Free access for inspection of said connecting mine on land privately owned or controlled shall be given at any reasonable time to the mining supervisor or his representative.

§ 211.37 Surface or open pit mining.

(a) *Fire prevention.*—Accumulations of slack coal or combustible waste shall be stored in a location and manner so as not to be a fire hazard to the coal deposit.

(b) *Coal face to be covered in strip pits.*—Upon completion or indefinite suspension of mining operations in all or any part of a strip pit, the face of the coal shall be covered with noncombustible material that will effectively prevent the coalbed from becoming ignited.

(c) *Underground workings from any strip pit.*—The driving of any underground openings by auger or other methods from any strip pit shall not be undertaken without prior written approval of the mining supervisor.

(d) *Reclamation and restoration of mined area.*—Reclamation must be performed as concurrently with mining as feasible.

§ 211.38 Mining isolated blocks of nonleased coal.

Narrow strips of coal which are owned by the United States between leased lands and the outcrop, or small blocks of coal which are owned by the United States adjacent to leased land that would otherwise be isolated or lost may be mined on written authorization of the mining supervisor. Authorization of the mining supervisor shall constitute a modification of the lease to include the necessary land.

§ 211.39 Mine abandonment; surface openings.

(a) *General requirement for abandonment.*—The operator shall substantially backfill, fence, protect or otherwise effectively close all surface openings, subsidence holes, surface excavations or workings which are a hazard to people or animals. Such protective measures shall be maintained in a secure condition during the term of the lease, permit or license. Before permanent abandonment of operations all openings and excavations, including water discharge points, shall be closed or backfilled according to plan approved by the mining supervisor.

(b) *Permanent abandonment of shafts.*—Mine shafts shall be abandoned in a permanent manner so as not to cause a public hazard or nuisance. This shall be done by filling the entire depth with incombustible material or by placing a reinforced concrete slab in solid rock and backfilling to the surface. All proposals for abandoning a shaft must have prior approval of the mining supervisor.

(c) *Permanent abandonment of slope and*

drift openings.—Slope or drift openings when permanently abandoned shall be effectively sealed with solid incombustible material such as reinforced concrete, solid concrete blocks, or other substantial material; or shall be completely filled with incombustible material for a distance of at least 25 feet into such openings. The surface openings and the coal exposed by the operator shall be covered by a sufficient amount of incombustible material that will effectively prevent the coalbed from becoming ignited. All proposals for abandoning a slope or drift must have prior approval of the mining supervisor.

(d) *Temporary abandonment of surface openings.*—Surface openings at all underground mines which are temporarily closed shall be adequately fenced or equipped with a substantial incombustible gate or door which shall remain locked when not in use. Conspicious signs shall be posted prohibiting entrance of unauthorized persons.

(e) *Permanent abandonment—surface mines and strip pits.*—The highwall of the final cut of any abandoned strip or open pit mine must be graded to a slope not greater than 2 to 1. Details shall be provided in the approved plan of reclamation required under part 211.10.

(f) *Reclamation and cleanup.*—Reclamation and cleanup of surface areas around and near permanently abandoned underground and strip mines must commence without delay followingcessation of mining operations.

PROTECTION AGAINST MINE HAZARDS

§ 211.40 Abandonment of underground workings.

(a) *Approval for abandonment required.*—No underground workings or part thereof shall be permanently abandoned and rendered inaccessible without the written approval of the mining supervisor.

(b) *Sealing or ventilating abandoned workings.*—All abandoned workings shall be either sealed or ventilated. All seals shall be constructed of solid, substantial, incombustible material, and at least one seal in each sealed area will be fitted with a pipe and valve for testing the atmosphere and pressures in the sealed area.

§ 211.41 Flammable gas and coal dust.

(a) *Flammable gas.*—All active underground workings shall be ventilated by a current of air containing not less than 19.5 percent oxygen by volume, not more than 0.5 percent carbon dioxide by volume, and contain no harmful quantities of other noxious or poisonous gases. The volume and velocity of the current of ventilating air shall be sufficient to dilute, render harmless, and to carry away flammable, explosive, noxious, and harmful gases, dust, and smoke. No dangerous accumulations of flammable gas will be allowed in or on surface coal handling facilities nor near active strip or augering mining or other types of remote coal recovery methods under an open pit highwall.

(b) *Coal dust.*—Accumulations of coal dust, loose coal, and other combustible materials shall not be permitted to accumulate in dangerous quantities in active underground and surface mine workings, on electrical equipment, or on surface coal handling facilities.

§ 211.42 Approaching abandoned workings.

Whenever a working place in an underground mine approaches within 50 ft of abandoned areas which can be inspected or within 200 ft of any abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within 200 ft of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least 20 ft in advance of the working face of such working place and shall be continually maintained to a distance of at least 10 ft in advance of the working face. Such boreholes shall be drilled sufficiently close to each other to insure that the advancing face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled at an angle of 45° and not more than 8 ft apart in the rib of such working places to a distance of at least 20 ft and such rib holes shall be drilled in one or both ribs of such working places as may be necessary for adequate protection of persons working in such places.

§ 211.43 Fire protection and prevention.

All structures within 100 ft of any mine opening shall be of fireproof construction. Flammable material shall not be stored within 100 ft of a mine opening. All shafts shall be fireproof, or adequate fire-control devices, satisfactory to the mining supervisor, shall be installed. All underground offices, stations, shops, magazines, and stores shall be of fireproof construction and so equipped and maintained to eliminate fire hazards. Sufficient materials and firefighting apparatus in working condition shall be maintained at the mine openings and at convenient points in the mine workings for fire emergencies. An adequate water supply shall be held in storage tanks or reserviors for fire emergencies and shall be available for immediate use through connecting pipelines for either surface or underground fires.

§ 211.44 Alternate source of power for main mine fans.

If deemed necessary by the mining supervisor, all electrically driven main mine fans shall be provided with an alternate source of power for immediate use in case of failure of the electrical power source.

WASTE FROM MINING

§ 211.51 Disposal of mine waste or rejects.

(a) The operator shall dispose of all solid wastes resulting from the mining and preparation of coal and mineral substances as required by the mining supervisor.

(b) All waste or rejects containing practically no coal shall be deposited separately and apart from sized coal for which no immediate market exists. The waste containing coal in such quantity that it may be later separated from the waste by washing or other means shall also be stored separately.

PRODUCTION RECORDS, ROYALTY AND AUDITS

§ 211.60 Production records.

(a) Lessees shall maintain books in which will be kept a correct account by weight of all coal mined; coal sold; to whom sold and the price received; coal stored; coal used on the premise; and coal otherwise disposed of.

(b) Permittees, if producing coal under a prospecting permit, must maintain the same records as required of the lessees in paragraph (a) of this section.

(c) Licenses must maintain a correct record of all coal mined and removed from the land under license.

(d) All records and books maintained by lessees, permittees and licensees showing the required information must be kept current and in such manner that the records can be readily checked by the mining supervisor or his representative upon request.

§ 211.61 Basis for Royalty Computation.

(a) *Sale price.*—The sale price basis for determination of the amount of royalty due shall not be less than the highest and best obtainable market price for coal of similar quality at the usual and customary price of disposal;

(1) At the time of sale, if the coal is sold.

(2) At the time of use by the operator or other disposition, if the coal is used or otherwise disposed of.

(3) On the date the royalty is paid, if the coal is stored for future use, sale, or other disposition.

(b) *Bone or other impurities.*—All bone coal, rock and other impurities may be removed from the raw coal prior to determination of coal weights for royalty purposes.

(c) *Discretion of mining supervisor.*—(1) The right is reserved to the mining supervisor to determine and declare the sale price if it is deemed necessary by him to do so for the protection of the interests of the lessor.

(2) If royalties become due and payable prior to extraction of bone coal, rock, and other impurities or final weighing of coal, the mining supervisor may determine by estimate the weight of the coal for royalty purposes. In addition, the mining supervisor may, after the removal of bone coal, rock and other impurities and final weighing of the coal, require the payment of such additional royalties or allow such credits or refunds as may be necessary to adjust the royalty payments to reflect the true weight of the coal.

§ 211.62 Production reports and payment—other reports.

(a) *Lessees.*—Lessees shall report, on the report form provided, within 30 days after expiration of the period covered by the report, all coal mined from the leased land during each calendar quarter and the sale price basis on which royalty has been paid or will be paid. Except as provided by leases and permits issued under the regulations in 25 CFR parts 171, 172, 173, and 174, the royalty for coal mined shall be paid prior to the end of the third month succeeding the extraction of the coal from the mine.

(b) *Permittees.*—Permittees shall report the prospecting work done, the cost of the work, the results of prospecting and such other information as may be necessary. Permittees shall report all coal mined while determining the existence or workability of the deposit.

(c) *Licensees.*—Licensees shall report all coal mined on a semiannual basis on the report form provided.

(d) *Penalty.*—If a lessee or permittee records or reports less than the true weight or value of coal mined, the Secretary may impose a penalty equal to double the amount of royalty due on the shortage, or the full value of the shortage, which penalty shall be paid in addition to royalty due and payable. If, after warning a lessee or permittee maintains false records or files false reports, a suit to cancel the lease may be instituted in addition to the imposition of penalties.

§ 211.63 Audits.

An audit of the lessee's or permittee's accounts and books may be made annually, or at other such times as may be directed by the mining supervisor, by certified public accountants and at the expense of the lessee. The lessee shall furnish, free of cost, duplicate copies of such annual or other audits to the mining supervisor within 30 days after the completion of each auditing.

INSPECTION, ISSUANCE OF ORDERS, AND ENFORCEMENT OF ORDERS

§ 211.70 Inspection of underground and surface conditions.

Operators shall provide means at all reasonable hours, either day or night, for the Mining Supervisor or his representative to inspect or investigate the underground or surface mine conditions; to conduct surveys; to estimate the amount of coal mined; to study the methods of prospecting, exploration, testing, development, preparation, and handling necessary; to determine the volums, types, and composition of wastes generated, the adequacy of measures for minimizing the amount of such wastes, and the measures for treatment and disposal of such wastes; and to determine whether the terms and conditions of the permit or lease and the requirements of the exploration, mining or reclamation plan have been complied with.

§ 211.71 Issuance of notices, instructions, and orders.

(a) *Address of responsible party.*—Before beginning operations, the operator shall inform the Mining Supervisor in writing of the designation and post office address of the exploration or mining operation, the operator's temporary and permanent post office address, and the name and post office address of the superintendent, or designated operator or agent, who will be in charge of the operations and who will act as the local representative of the operator. Thereafter, the Mining Supervisor shall be informed of each change of address of the mine office or in the name or address of the legal representative.

(b) *Receipt of the notices, instructions, and orders.*—The operator shall be considered to have received all notices, instructions, and orders that are mailed to or posted at the mine or mine office, or mailed or handed to the superintendent, the mine foreman, the mine clerk, or higher officials connected with the mine or exploration site for transmittal to the operator or his local representative.

§ 211.72 Enforcement of orders.

(a) *Notice of noncompliance.*—If the Mining Supervisor determines that an operator has failed to comply with the regulations in this part, other applicable departmental regulations, the terms and conditions of the permit or lease, the requirements of an approved exploration or mining plan, or with the Mining Supervisor's orders or instructions, the Mining Supervisor shall serve a notice of noncompliance. The notice shall specify in what respects the operator has failed to comply with the provisions of applicable regulations, the terms and conditions of the permit or lease, the requirements of an approved exploration or mining plan or the orders and instructions of the Mining Supervisor, and shall specify the action which must be taken to correct the noncompliance and the time limits within which such action must be taken. A written report shall be submitted by the operator to verify that noncompliance has been corrected.

(b) *Penalty for noncompliance.*—If, in the judgment of th Mining Supervisor, failure to comply with the regulations, the terms and conditions of the permit or lease, the requirements of approved exploration or mining plans, or with the Mining Supervisor's orders or instructions threaten immediate, serious, or irreparable damage to the environment, the mine or the deposit being mined, or other valuable mineral deposits or other resources, the Mining Supervisor or his representative is authorized, either in writing or orally with written confirmation, to suspend operations without prior notice of noncompliance. Failure of the operator to take action in accordance with the notice of noncompliance shall be grounds for ordering suspension of operations by the Mining Supervisor.

PART 216—OPERATING REGULATIONS GOVERNING THE MINING OF COAL IN ALASKA [REVOKED]

Part 216 of chapter II of title 30 of the Code of Federal Regulations is revoked.

JOHN B. RIGG,
Deputy Assistant Secretary of the Interior.
APRIL 24, 1973.

[FR Doc. 73-8318 Filed 4-27-73; 8:45 a.m.]

AN INDEPENDENT WATERGATE INVESTIGATION

Mr. ERVIN. Mr. President, the Senate Judiciary Committee is presently considering the nomination of Mr. Elliot Richardson to be the Attorney General of the United States. While I have the greatest confidence in Mr. Richardson's personal integrity, I share the concern of many of my colleagues in the Senate about the wisdom of Mr. Richardson's proposal that he appoint a special investigator to direct the Watergate investigation without giving such special investigator full independence. Nothing is more important at this time than to restore the confidence of the American people in the processes of Government. In my opinion as investigation conducted by a person entirely independent of the administration will regain such confidence.

Mr. President, on May 2, 1973, WRAL–TV, in Raleigh, N.C., expressed this same general viewpoint. I ask unanimous consent that a transcript of this television editorial be printed in the RECORD.

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

WRAL–TV VIEWPOINT

The U.S. Senate is absolutely correct in its insistence that President Nixon should appoint an outsider, not someone from the Executive Branch, to ramrod the Watergate investigation. It is imperative for him to do so if confidence in the White House is to be maintained—some would say restored.

Mr. Nixon has assigned the job instead to Elliot Richardson, his choice to replace Richard Kleindienst as Attorney General. It is not the same thing as having an outsider run the investigation. Mr. Richardson is above reproach, but he will be the Attorney General, and the Attorney General, no matter who he is, is the President's man.

Surely it should be clear enough by now to anybody, including Mr. Nixon, that something more than an inside job is required inasmuch as the President's top advisors have been implicated in the sordid Watergate affair and inasmuch as there are those who will be so uncharitable as to suggest that Mr. Nixon himself may be in this business up to his neck.

Not all of these persons are sworn enemies of the President either. The most telling criticisms so far have not emanated from Nixon haters. They have emanated from Mr. Nixon's well-wishers who, perceiving no lack of flatterers and lapdogs at the White House, concluded that what the President needed most was honest criticism, not self-evaluations exonerating Nixon staffers of all wrong.

And that gets us to precisely the point. It is the President himself—not John Ehrlichman or Bob Haldeman or any of the President's ex-henchmen—who must be extricated from this unhappy episode, and it is no more possible for the Attorney General to do it than for the President to do it himself. Any results the Attorney General turns in on the point of possible complicity by the President will be suspect. The same will be true if the investigation is assigned to a special prosecutor operating out of the Attorney General's office—an alternative method Mr. Nixon mentioned in his Watergate message this week.

It isn't enough. Even the President's friends, some of them, have been saying that the White House is interested in the truth only because—and to the degree that—the truth is nipping at its heels. Impeachment has been seriously talked about, and at least one Nixon ally—columnist William F. Buckley Jr.—has argued against it on the interesting ground that, while the President may be culpable, impeaching the sovereign would generate such agonies that he ought to be censured instead—as Sen. Joe McCarthy was, for instance.

When we have come to that, when serious men are discussing what form presidential punishment should take, it is clear that something more than another in-house investigation is called for. What is needed is a thorough probe by an outsider whose stature and integrity and—most of all—independence are beyond question.

In the absence of such an investigation, the suspicion of corruption will remain; and unless the President orders such an investigation, the public can be expected to wonder why he didn't.

AGRICULTURAL RESEARCH HELPS HUMANS, TOO

Mr. BELLMON. Mr. President, a great amount of research work done in agriculture has produced important spinoff results that are applicable to human medicine.

The discovery of dicumarol, used extensively in the treatment of heart patients, the discovery of terramycin, which is one of the present-day wonder drugs, the discovery of most of the vitamins and many of the minerals as well as the amino acid building blocks of protein and the commercial potential for penicillin production were all accomplished in laboratories of the State agricultural experiment stations.

An article in the March 13 issue of the Wall Street Journal calls attention to yet another important discovery. In this case a rather basic accidental finding that was made in the Department of Poultry Science at the Ohio State University resulted in some important new knowledge about how the human body develops immunity to disease.

Some believe this discovery may lead to a treatment for cancer or arthritis. Whether this comes true remains to be seen. Nevertheless, the applications to human medicine that have been found in agricultural research laboratories will be worth far more to humanity than the relatively small amount of money that has been invested in these facilities.

Mr. President, I ask unanimous consent that this article be printed in the RECORD for the information of all Members.

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

NEW ADVANCES IN STUDY OF IMMUNITY TO DISEASE ENCOURAGE PHYSICIANS

(By Jerry E. Bishop)

For a young graduate student studying poultry science at Ohio State University it was a rather embarrassing end to a routine laboratory experiment. Timothy S. Chang had been assigned to show some younger students how the chicken develops immunity when vaccinated against the common salmonella bacteria.

For the demonstration he borrowed a dozen healthy chickens from fellow graduate student Bruce Glick, who happened to be using the birds in an esoteric study to learn the function of a mysterious gland in the chicken intestines.

Mr. Chang and his students carefully inoculated the chickens, waited a week, and then drew blood samples to test for evidence of salmonella immunity. To his surprise and chagrin, 10 of the chickens failed to show any signs of immunization. "Tim came back to the lab and asked if I was trying to pull off some kind of joke," recalls Mr. Glick, now professor of poultry science at Mississippi State University in Starkville.

Puzzled, Mr. Glick checked his lab records on the birds and found the clue. The 10 chickens that failed to develop immunity all had that mysterious gland in the intestines removed by Mr. Glick as part of his research. The two animals that did develop immunity still had the gland intact. The gland obviously had something to do with immunity.

A LONG JUMP

It's a long jump from chickens to humans, physiologically or any other way. But a group of excited researchers say this almost accidental discovery in the chicken is a key element in a new concept of how the human body develops immunity to disease—and what happens when that immunity fails.

Immunity has mystified scientists for centuries. It is the strange ability of the body, when it is exposed to a "foreign" substance, to build up a long-lasting, highly specific protection against that particular substance. The most obvious example is a child's exposure to, say, the mumps virus. He develops a case of mumps but quickly recovers as the body mounts an overpowering attack on the virus. From then on, for years, perhaps a lifetime, the body is immune to any further invasions of the mumps virus.

The same phenomenon plays a role in allergies where the body's immune system, after a first exposure to, say, ragweed pollen, reacts almost violently against every subsequent exposure to the pollen—causing the person to sneeze, have a runny nose and watery eyes and other symptoms. It also occurs when the body rejects grafts of skin or transplants of organs from another person.

The newest concept in immunity research sounds somewhat prosaic. In oversimplified terms it says that instead of one unified immune system in the body, as had been thought for decades, there are really two separate parts to the immune system, each working independently of the other. The new concept is known simply as the two-component immune system theory.

SERENDIPITY AND INGENUITY

So far, tne lives of at least two dozen children have been saved as a direct result of the new understanding of immunity, and probably 3,000 other people owe their lives to it indirectly. A new understanding and possible treatment for that ancient pestilence, leprosy, is emerging. And new approaches to such scourges as cancer and arthritis may be in the offing.

Almost as fascinating, the scientists involved in formulating the new concept unfold a story of medical research that occasionally sounds like a movie script. It involves not only chickens at Ohio State, but a host of coincidences and chance meetings, episodes of scientific serendipity, some ingenious experiments and ultimately some dramatic life-saving treatments.

The story takes place against a background of what was known—and unknown—about human immunity in the early 1950s. As every schoolchild is taught, the body's defenders against disease are the "white corpuscles," that is, the white blood cells known broadly as leucocytes. There are several kinds of white cells. Some of the larger types are the scavenger cells that will attack and try to digest anything that breaks through the skin. Thes) are general defenders and don't discriminate among the germs that invade the body.

The white cells that are the sources of immunity are quite different. They are the smallest of the white cells and are called lymphocytes. These lymphocytes have an almost incredible talent. When a foreign substance enters the body the substance carries a chemical identification called an antigen, which is kind of a "dog tag" of the microscopic world. The mumps virus carries its own peculiar antigen, which is different from the antigen of, say, the measles virus.

AN ARMY OF ANTIBODIES

The lymphocytes have the ability to "recognize" antigens. If the antigen is foreign, one that doesn't belong in the body, the lymphocyte launches its attack. It begins secreting special proteins, called antibodies, that engulf the foreign antigen, rendering it harmless. The antibodies function solely against that particular antigen; antibodies produced against mumps viruses are effective only against mumps viruses.

On the first encounter with a foreign antigen it takes a while for the lymphocytes to build up a sufficient army of antibodies. But from then on they keep a reserve of these antibodies floating in the blood stream. In addition, if there is a second invasion of the same antigen, the lymphocytes, now primed, can react almost instantly with a flood of antibodies against it. This, scientists explain, is immunity.

Doctors learned years ago to exploit this situation. Vaccination is nothing more than injecting antigens that have been rendered harmless into the body, spurring the lymphocytes to build up antibodies. The antibodies can be extracted from the blood of one person and given to another to provide temporary immunity; hence, the gamma globulin—the part of the blood that contains the antibodies from a person who is immune to mumps can protect a nonimmune person against mumps. (The protection is temporary because the recipient's own immune system will eventually destroy the "foreign" antibodies.)

In the 1940s and 1950s, this idea of the antibodies being the essence of immunity was controversial, to say the least. The results of various experiments just didn't jibe with the concept. For instance, there was a problem with experimental skin grafts. When a person receives a skin graft it takes two or three weeks for his immune system to reject it. If he receives a second skin graft from the same donor, however, the rejection is far more rapid and violent, which is what one would expect.

When scientists tried to transfer this skin graft immunity to another person they ran into a puzzle. It worked only if they transferred whole lymphocytes, and it didn't work if they transferred only the antibody-rich gamma globulin. In addition, other research was showing quite clearly that the rejection of skin grafts or transplanted organs was being accomplished by the lymphocytes themselves instead of antibodies. Debates raged over whether immunity was really "cellular"—carried out by the lymphocytes themselves—or "humoral"—accomplished by the antibodies circulating in the blood.

In the midst of this debate, a U.S. Army pediatrician at Walter Reed Hospital in Washington dropped a medical bombshell. A four-year-old son of an Air Force officer had been admitted to the hospital with a diagnosis of acute rheumatic fever, the pediatrician, Dr. Ogden C. Bruton, recalled a few years later. At first, penicillin seemed to clear up the infection. But two or three weeks later the child was back sick again.

In the next four years, according to Dr. Bruton, the child was in the hospital 19 times with infections. Antibiotics were of temporary help, but vaccines just didn't work with the boy. The child was in the hospital so much that he became a favorite patient to be shown to distinguished medical personages visiting the hospital.

AS HEALTHY AS ANYONE

"We were there with the child one day and someone suggested this boy, having permanently serious severe infections, almost certainly would have a high gamma globulin." Dr. Bruton recounted later. About that time, the Walter Reed Institute, where research is done, acquired a new machine to check gamma globulin from blood samples, so Dr. Bruton sent a sample of the boy's blood over to be tested.

The next day, he recalled, the machine technician called back and said there was something wrong with the machine because it couldn't detect any gamma globulin. A second sample was sent over and the same report came back. "Well, things begin to click," Dr. Bruton recounted. The boy was incapable of making gamma globulin and antibodies. Hence the severe infections.

Dr. Bruton began giving the youngster monthly shots of gamma globulin, and from that time on he never again suffered the severe infections. At last report, he was 25 years old, working as a bank cashier, still receiving monthly shots of gamma globulin and as healthy as anyone else.

When Dr. Bruton published his report on the boy, in 1952, it was the first reported case of disease due to a defect in the immune system. Since this alert, medical researchers have diagnosed more than 3,000 cases of disease due to various defects in the ability to make antibodies, and most of the patients have been helped—perhaps saved—by the administration of the missing or defective gamma globulin. More importantly from a scientific viewpoint, experiments were performed on some of these persons and it was discovered that they could reject skin grafts although they couldn't make antibodies against infections.

ALMOST OVERLOOKED

It was startling enough that Dr. Bruton's patient could have survived even a few months without an immune system in a world filled with potentially lethal bacteria and viruses. But as the researchers probed this newly discovered "immune deficiency disease," they made another unexpected finding. Although these patients cannot make antibodies against bacteria and viruses, they do produce seemingly normal lymphoctyes and they can reject skin grafts.

The immunologists who were excitedly uncovering case after case of "agammaglobulinemia," as it is called, were completely unaware of Messrs. Glick and Chang and their chickens. Indeed, the medical world came close to never hearing about the two young Ohio State poultry scientists.

At Ohio State, Mr. Glick was under the tutelage of a physiologist who was deep in an effort to determine what the comb of the chicken does. It wasn't a subject about which Mr. Glick could develop much enthusiasm, he now admits. "One day—it must have been in November 1952—I was watching the professor dissect a goose. He removed an obscure-looking gland, and I asked him what it was." The gland, he was told, is known as the bursa of Fabricius, named after Girolamo Fabrizio, a 17th Century Italian anatomist. The gland is found in the intestines of birds, but no one had figured out its purpose.

"A couple of months later, being disenchanted with the comb of the chicken, I got interested in the bursa of Fabricius," Mr. Glick says. "Graduate students kind of grasp at anything to be different, you know." A logical experiment seemed to be to take some newly hatched chickens, remove their bursas, and see if their growth was affected. But in the protective environment of the laboratory the bursaless chickens seemed to thrive just as well as "control" chickens that, after sham surgery, were left with the bursa intact.

AN IDENTICAL SITUATION

It was, of course, the bursa-less chickens that Mr. Chang borrowed for his unsuccessful demonstration of chicken immunity. As experiments in subsequent months showed, if the chicken bursa is removed in early life the birds can't develop the ability to make antibodies. Although they didn't realize it, the Ohio State graduate students were seeing a situation in the chicken identical to the one Dr. Bruton had seen in his young patient at Walter Reed Hospital.

The Ohio State scientists finally got their report published in Poultry Science, a specialty journal. The report was spotted by zoologists at the University of Wisconsin, who undertook confirming experiments and began to get word out to the immunologists.

For a handful of immunologists here and abroad, news of the chicken experiments came at a strange time. For years they had been trying to track down where those ubiquitous and amazing lymphocytes came from in the body. They were now at the climax of this research. Every experiment pointed to the thymus gland as being the source of the lymphocytes and, hence, the throne of immunity. The thymus is a small, butterfly-shaped organ right above the heart whose purpose had been an enigma for years.

What mystified the immunologists was the fact that the chicken, like mammals, also has a thymus gland that had to be involved in immunity. Now the poultry researchers had found a second gland—the bursa of Fabricius—that was involved in immunity.

AN INTRIGUED IMMUNOLOGIST

Among the immunologists intrigued by this discovery in the chicken was Dr. Robert A. Good, then head of pediatrics at the University of Minnesota, who had been probing the role of the thymus in immunity. He almost immediately put a team of younger colleagues to work on the chicken. The team, headed by Dr. Max Cooper, took some newly hatched chicks, removed the thymus in some and the bursa in others, and destroyed any prebirth vestiges of immunity with heavy atomic radiation.

As the birds grew, they redeveloped their immunity. But the chickens without a bursa produced lymphocytes that couldn't make antibodies, and those without a thymus had lymphocytes that couldn't reject skin grafts.

The theory that there may be two components to the immune system began to emerge. It goes like this: The source of all blood cells, including the white cells, is the bone marrow. In the case of the white cells, however, the bone marrow produces only primitive, immature cells. These immature cells then migrate to other parts of the body, where they "grow up" to become lymphocytes.

The immature white cells that reach the thymus gland and mature under its influence become the lymphocytes that reject skin grafts and attack transplant organs and invasions of ragweed pollen and other allergy-causing antigens. Other immature white cells, however, migrate to the bursa of Fabricius or its equivalent. There they grow up to become the lymphocytes that produce antibodies against viruses and similar antigens.

(Scientists haven't yet found an organ in the human that is equivalent to the bursa of Fabricius in birds. Under suspicion are organs such as the tonsils, the appendix, some tissues in the liver, the spleen, or, perhaps, tissues hidden in the bone marrow itself.)

STICKING THEIR NECKS OUT

Birds, of course, evolved differently from mammals like the human. And it is possible that nature, over the eons, had combined both components in the human thymus gland. Yet, there were people who couldn't make antibodies but could reject grafts.

The Minnesota scientists were ready to stick their necks out by 1965, and they did so in a report delivered by Dr. Cooper before the American Academy of Pediatrics. Almost immediately some scientists in the audience cautioned against drawing any conclusions about humans from chicken experiments.

What then happened "couldn't have been more beautiful," recalls Dr. Cooper, who now is at the University of Alabama Medical Center in Birmingham.

A doctor in the audience hurried to the microphone and began describing the puzzling deaths of three infants at St. Christopher's Hospital for Children in Philadelphia and the illness of a fourth child then in the hospital. The speaker was Dr. Angelo M. DiGeorge, pediatrician and endocrinologist from St. Christopher's and a member of the faculty at Temple University.

The first child had been admitted to the hospital in 1963. She had been born without a small gland in the neck, the parathyroid gland, which controls the use of calcium by the body, and was suffering symptoms of this birth defect. The child died suddenly on the third day in the hospital. "I wasn't present when the autopsy was performed." Dr. DiGeorge recounted later.

TRAGIC EXPERIMENTS IN NATURE

But a few weeks afterward, while studying a medical textbook, Dr. DiGeorge found a description of a similar case that noted that the infant patient was missing the thymus gland as well as the parathyroid gland. "I could hardly wait until the next day to ask Dr. James B. Arey about the appearance of the thymus in our infant," he recalled. The pathologists hadn't found any trace of a thymus, he was told.

In the next several months two other children died under similar circumstances and autopsies failed to find a thymus gland. Dr. DiGeorge tried vainly to interest some immunologists in the cases. But the blood tests had showed the children had lymphocytes that couldn't have existed, under the then-current belief, without some vestige of thymus tissue. The pathologists just couldn't find the thymus, the immunologists replied.

Now a fourth child, also born without the parathyroid, was in the hospital and was being struck repeatedly by severe infections. X-rays couldn't find any evidence of a thymus gland, and Dr. DiGeorge was suspicious this was the problem.

After hearing Dr. Cooper's report, Dr. DiGeorge rushed back and began a series of exhaustive tests on the child. Sure enough, the child had the bursa type of immunity and could produce antibodies. But the infant was lacking the thymus type of immunity and couldn't reject skin grafts. Despite the doctors' efforts, the child died 10 months after entering the rospital. The autopsy confirmed it had been born without a thymus gland.

What Dr. Good terms "experiments in nature" had tragically confirmed that the two-component immune system that existed in the chicken also existed in humans. Dr. DiGeorge's patient's were missing the thymus type of immunity while the patients discovered by Dr. Bruton were missing the bursa type of immunity.

TOWARD A NEW ROLE FOR CONGRESS

Mr. HARTKE. Mr. President, no fact is more clear today than that one branch of the Federal Government has assumed a position of inordinate predominance. The major problem faced by our society today is an excessive reliance on an escalating bureaucracy which is not responsible in any significant degree to the people. We have exalted the Presidency to a point that his powers far exceed their stated limits and pose a real threat of dictatorship.

If there is a first branch of the Federal Government, it is the Congress, for it is in the Congress that 535 elected spokesmen for the American people reside. Yet, it is clear that there has been an erosion of congressional power which threatens to make the legislative branch an archaic and useless institution.

Mr. President, recently an article written by Arlene J. Large appeared in the Wall Street Journal. The article takes the view that Congress responds best to crises and to "defiance of law." It also contends that the President's handling of the budget has had a "shock effect" on the Congress.

Mr. President, I ask unanimous consent that Mr. Large's article be printed in the RECORD.

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

[From the Wall Street Journal, April 13, 1973]

THE SHOCK TREATMENT FOR CONGRESS

(By Arlene J. Large)

WASHINGTON.—One of the scariest lessons of the turbulent '60s was that. in a sense, lawbreaking worked.

City riots resulted in a lot more federal money for cities. Student seizure of the college president's office won them, after the fuss died, a louder voice in campus affairs. Even now, the offense being committed at Wounded Knee are forcing more intense government attention to the problems of Indians generally.

The phenomenon makes politicians squirm. It ought to be possible to do good works without a prelude a lawbreaking and violence. But however deplorable, there's nothing like them for calling attention to a grievance that everybody's been ignoring.

In an entirely different frame of reference, the lesson is being demonstrated again in President Nixon's budget fight with Congress. Mr. Nixon's cancellation of some long-unexamined federal programs is being called illegal on Capitol Hill and even in some federal courtrooms. Cancelling an entrenched federal activity by decree does violence, to say the least, to the traditional Congressional-Executive relationship.

Nevertheless, by not working within the old system, Mr. Nixon has aroused a snoozing Congress and made it mad. He has also made it a little ashamed, and true to the uncomfortable lesson of the '60s, it's starting to shape up.

Budget directors of earlier Presidents beefed for years about the bargain interest rates on federal rural electrification loans, for example, but Congress always voted the money and the lending obediently continued. Mr. Nixon last December smashed that traditional interplay by simply ordering a halt to the loans. Congressmen screamed it was illegal, but the President at last had got their attention.

The result has been a reluctant attempt to redirect the cheap loans to rural electric coops that really need them. The change recently voted by the House evidently still doesn't go far enough to suit the administration, but no earlier President has forced this much motion with more conventional methods.

His proposed slaughter of several federal health programs, uplift projects for depressed areas and a major part of the anti-poverty program likewise have startled lawmakers into promising reform and overhaul. Congressional committees in charge of housing for years neglected their "oversight" function of monitoring this federal patchwork of programs. Now, at last, the Senate Banking Committee is holding some housing hearings. To be sure, the Senators are trying to prepare a case for continuation of the programs, but they're also promising to make repairs.

More important than these individual instances of deathbed religion on Capitol Hill is the total shock effect of Mr. Nixon's behavior on the way Congress handles the budget as a whole.

THUNDERBOLTS GET RESPONSE

The President asserts he must hurl his economy thunderbolts unilaterally because

the undisciplined legislative mobs aren't organized to consider the budget as a whole. It's an old complaint, but for the first time Congress appears to be responding in a serious way.

Nobody is defending the status quo, the easygoing practice of passing a tandem of piecemeal appropriation bills without relating them to final spending and revenue targets. Now everybody has a plan for doing that.

Typically, a special committee has been appointed to come up with new appropriations procedures, and something good very likely will come of it. Every five minutes, it seems, some lawmaker is saying ponderously: "We must get our own house in order."

There is, of course, a high quotient of politics in the exchange of accusations between the spend-happy Democratic Congress and the Republican President who lacks compassion for the poor. But this is the workaday trade of grownup professional politicians, all trying to keep people interested in what they do. For Congress, the special thumb-in-the-eye that's producing the unusual response of outrage and grudging reform is the feeling that the Executive is trying to take over its job. Mr. Nixon's freezes of appropriations are, in this view, legislative actions going beyond his constitutional authority to recommend bills and veto those he doesn't like.

Mr. Nixon's lawyers insist it's perfectly legal, but so far they're doing poorly in the lower federal courts.

In Minnesota, a group of farmers sued the Agriculture Department for its sudden termination in December of a program of supergenerous disaster loans. Federal District Judge Miles Lord ruled last month that in killing the program, Agriculture Secretary Earl Butz improperly substituted his own opinion of its merit for the will of Congress. Said Judge Lord:

"It is the opinion of the court that the defendants have a ministerial duty to implement the emergency loan program as directed by Congress, that the unilateral termination of the program without notice to the plaintiffs in this case was in violation of the statutes, the agency's own regulations and due process of law."

The government likely will appeal the district court's decision. Meanwhile, Congress yesterday passed a bill reinstating the loans for a brief period. Significantly, though, the administration's "unilateral" and possibly illegal deed fixed lawmakers' attention on the huge budget cost of those generous loans; the new bill eventually would tighten up the terms of rural disaster lending.

After President Johnson impounded some highway money in 1967, Congress wrote into the law a new section forbidding it. When Mr. Nixon nevertheless impounded some highway funds in 1971, the Missouri Highway Commission sued and won both in federal district court and, earlier this month, in the Eighth Circuit Court of Appeals.

THE APPEALS COURT RULING

Administration lawyers essentially argued that despite the must-spend section of the highway law, the Secretary of Transportation has legal discretion to control the rate of outlays. Examining the law, the appeals court in its 2-to-1 ruling said the administration is wrong:

"It is impossible to find from these specific grants of authority discretion in the Secretary to withhold approval on projects Congress has specifically directed because of a system of priorities the Executive chooses to impose on all expenditures."

The Supreme Court probably will have the final word. But here again, the impoundments—legal or otherwise—are producing a response from Congress. The pending version of a new highway bill has a must-spend section, but it also cuts back the amount of interstate roadbuilding money authorized. Sponsors frankly say it's intended to induce Mr. Nixon to stop impounding.

The most recent courtroom setback for the administration came just this week when a federal district judge here ruled that the Office of Economic Opportunity is being closed down prematurely. Congress has voted money for OEO's poverty fighters through June 30, and Judge William Jones ruled they can't be disbanded now just because the Nixon budget contains no funds for the following year.

Even though it's losing in court so far, the administration is able to keep freezing money while the cases are pending. Indeed, one Agriculture Department official told a farm meeting in Idaho that if Congress orders reinstatement of a cancelled soil conservation program, Mr. Nixon will veto the bill and not release funds even if a veto is overridden. If somebody sues, he said, there'll be another President before the case is finally settled. Word of the meeting got back to Rep. John Melcher (D., Mont.), who sees the administration's attitude as "a defiance of congressional constitutional authority."

(In this instance, the impoundment produced no congressional promise to reform the soil conservation program, despite longstanding complaints that it subsidized farmers for doing what they'd probably do anyway. Both the House and Senate have passed bills just ordering the administration to start it up again without change.)

How one feels about the legality of the administration's money freezes doubtless depends on the health and whereabouts of one's own ox. Administration officials say special interest groups naturally will scream, but that taxpayers generally will applaud. That's probably true. But the vigor of the Executive's claim of authority has aroused echoes of the old FDR-era complaints about "one-man rule," with Democrats alarmed about a too-strong presidency and loyalist Republicans sounding comfortable with it.

SENATOR HUGHES' VIEW

Sen. Harold Hughes (D., Iowa) puts it this way: "I am worried not so much about the power of Richard Nixon as the precedent that is being set for other Presidents on down the line in the future. I can't begin to determine what their next step of escalation might be down this road, but when I think about it, it scares the hell out of me."

Sen. Hughes is a liberal who disagrees with Mr. Nixon on the merits of many frozen programs, so his protests aren't based on constitutional theory alone. But a parallel point was made in a recent House speech by Rep. Philip Crane (R., Ill.), an articulate conservative:

"It would be good to believe that liberals who now express concern over too much Executive authority really wish to restore the supremacy of Congress. Unfortunately, the goals of far too many seem more partisan.

"Equally unfortunate is the fact that now that conservatives have a real opportunity to implement their principle of limited government and restore Congress to its proper role, many seem subservient to the will of an Executive of their own party.

"In neither instance is the will or the interest of the people really served."

If in search of its "proper role" Congress improves its haphazard budget-handling methods and re-examines entrenched federal programs. Mr. Nixon's unconventional use of Executive power could be a long-range plus for the Legislative Branch. But some observers of Congress worry that the President's actions could generate a backlash harmful to Executive Branch efficiency. Legislation this year already is beginning to bristle with tightly worded mandatory spending clauses. Louis Fisher, a Library of Congress researcher, thinks Congress will try to grant "less discretion at the cost of effectiveness of government and programs."

Like many others, Mr. Fisher would like to see a greater spirit of cooperation on both sides. So would George Washington University law Professor Arthur Miller. "I think what we are seeing is a complete defiance of the law by the Executive," he said at a recent seminar here on Executive-Legislative relations. "I don't think the President knows best. I don't even think the Congress knows best. I do think that working together, they might do a little better than they are now."

Cooperation is pleasant and statesmanlike. But "defiance of the law" calls more attention to neglected problems, whether on the campus or the musty chambers of the House Appropriations Committee. It's deplorable, but it works.

PROGRESS AND PLANS OF NATIONAL COMMISSION ON THE FINANCING OF POSTSECONDARY EDUCATION

Mr. BEALL. Mr. President, I have the pleasure of serving on the National Commission on the Financing of Postsecondary Education, which was established by Public Law 92–318. The commission is expected to report its findings and recommendations by December 31 of this year. Because of the importance of the business of the Commission and the interest in this subject both in the Congress and the country, I ask unanimous consent that an information brief prepared by the commission be printed in the RECORD.

If Members of Congress or others have any suggestions, comments, or criticism with respect to the commission's work, I certainly encourage them to contact the commission or its members.

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

AN INFORMATION BRIEF—APRIL 1973

The National Commission on the Financing of Postsecondary Education was appointed by the President and the Congress in late September of 1972 in accordance with the Education Amendments of 1972. The Commission began meeting soon after it was established to consider the extent of its proposed work and to determine the procedures and staffing needed to accomplish the complex study. The Commission has met six times since September. By February 1973, a staff had been drawn together to work with the Commissioners to conduct and publish the study by December 31, 1973.

To facilitate the work that must be accomplished before the Commission can make recommendations to the President and Congress, committees and subcommittees made up of Commission members, working with the professional staff, are meeting almost weekly to accomplish the tasks involved in the comprehensive study described on the following pages. The Commission's monthly meetings are the occasion for review and evaluation of committee work and reports from the research staff. Although there is a heavy pressure of time, the Commission is placing strong emphasis on the thoroughness and quality of work done by the committees and research staff of the Commission.

The Commission attempts both to inform the public of what it is doing and to encourage response by opening its meetings to interested visitors, by maintaining appropriate communication with the postsecondary community, and by soliciting opinions from interested parties. The Commission is

making every effort to meet its December deadline and to provide federal, state, and local policy makers with information about and Commission recommendations for the future funding of postsecondary education.

DONALD E. LEONARD, *Chairman.*

SUMMARY

In response to the charge contained in the establishing legislation given on pages 3–5 in the description that follows, the National Commission on the Financing of Postsecondary Education will prepare:

I. A description of the present conditions that are relevant to the role of postsecondary education in our society.

II. A summary of the purposes, scope, and dimensions of postsecondary education.

III. A synthesis of objectives for postsecondary education recommended by the Commission.

IV. A description of and a rationale for the selection of the measures used to evaluate the accomplishment of the objectives.

V. An analysis that describes the kind and amount of financial support for postsecondary education from all sources.

VI. A program analysis of existing funding programs.

VII. A projective analysis estimating the extent to which each of several alternative funding programs would achieve the objectives for postsecondary education agreed upon by the Commission.

VIII. Recommendations for national uniform procedures for calculating instructional costs per student.

IX. An assessment of the nature and causes of serious financial distress facing postsecondary institutions and recommendations for improvement.

X. The final reports of findings and recommendations.

The National Commission on the Financing of Postsecondary Education was established by Public Law 92-318 (Section 140) and appointed by Congress and the President to undertake studies of:

The impact of past, present, and anticipated private, local, state, and federal support for postsecondary education.

The appropriate role of the states in support of higher education (including the application of state law upon postsecondary educational opportunities).

Alternative student assistance programs.

The potential federal, state, and private participation in such programs.

The establishing legislation does not leave entirely to the Commission the task of delineating details of the study, but goes on to indicate several specifics that shall be included and shall be considered:

1. The study shall determine the need, the desirability, the form, and the level of additional governmental and private assistance to postsecondary education.

2. It shall include at least:

a. An analysis of the existing programs of aid to institutions of higher education.

b. An analysis of various alternative proposals presented to the Congress to provide assistance to institutions of higher education.

c. An analysis of other viable alternatives of assistance to institutions of higher education.

3. The analyses under No. 2 shall include:

a. The costs of existing programs and alternative programs.

b. The advantages and disadvantages of each.

c. The extent to which each proposal would preserve the diversity and independence of such institutions.

d. The extent to which each would advance the national goal of making postsecondary education accessible to all individuals, including returning veterans, having the desire and ability to continue their education.

4. In conducting the study, the Commission shall consider:

a. The nature and causes of serious financial distress facing institutions of postsecondary education; and

b. alternative models for the long-range solutions to the problems of financing postsecondary education with special attention to the potential federal, state, local, and private participation in such programs, including, at least:

(1) The assessment of previous related private and governmental studies and their recommendations;

(2) existing state and local programs of aid to postsecondary institutions;

(3) the level of endowment, private sector support, and other incomes of postsecondary institutions and the feasibility of federal and state income tax credits for charitable contributions to postsecondary institutions;

(4) the level of federal support of postsecondary institutions through such programs as research grants and other general and categorical programs;

(5) alternative forms of student assistance, including, at least, loan programs based on income-contingent lending, loan programs which utilize fixed graduated repayment schedules, loan programs which provide for cancellation or deferment of all or part of repayment in any given year based on a certain level of a borrower's income; and existing student assistance programs, including those administered by the Office of Education, the Social Security Administration, the Public Health Service, the National Science Foundation, and the Veterans Administration; and

(6) suggested national uniform standards for determining the annual per-student costs of providing postsecondary education for students in attendance at various types and classes of institutions of higher education.

The legislation requires that "No later than April 30, 1973, [to be amended to December 31, 1973] the Commission shall make a final report to the President and Congress on the results of the investigation and study." The report will include:

1. Findings and recommendations as the Commission deems appropriate, including recommendations for legislation.

2. Suggested national uniform standard procedures for determining the annual per-student costs of providing postsecondary education for students in attendance at various types and classes of institutions for higher education.

Within 60 days from the submission of the final report,

". . . the Commissioner [of Education] shall make a report to the Congress commenting on the Commission's suggested national uniform standards, and incorporating his recommendations with respect to national uniform standards together with any related recommendations for legislation."

To accomplish its task, the Commission has available $1.5 million in federal appropriations.

In response to the charge contained in the establishing legislation, the Commission will prepare:

I. A description of the present conditions that are relevant to the role of postsecondary education in our society. This description will include:

A. Demographic patterns of the population in general: Who seeks a postsecondary education?

B. Demand patterns of current and potential participants: What kinds of postsecondary education programs do they want?

C. Mobility patterns of participants within and among particular postsecondary institutions: What institutions or programs of postsecondary education do they attend and how long do they stay?

D. Broad social and economic attitudes with regard to:

1. The present patterns for responsibility of paying for postsecondary education among:

a. student participants
b. parents
c. taxpayers
d. donors
e. the general public

2. The shifting patterns of employment, including, but not limited to:

a. early retirement
b. the shorter work week
c. increased leisure time
d. increasing female employment
e. status of employment of ethnic minorities

II. A summary of the purposes, scope, and dimensions of postsecondary education that will include alternative categories of institutions, students, and funding programs. In addition, the Commission will summarize and analyze statements of objectives for postsecondary education derived from many sources.

III. A synthesis of objectives for postsecondary education recommended by the Commission. The Commission is currently considering statements of objectives in the following areas:

A. student access and choice
B. institution and program diversity
C. educational and financial accountability
D. institutional autonomy and social responsibility
E. educational benefits to the individual and to society
F. plurality of support for postsecondary education.

IV. A description of and a rationale of the measures used to evaluate the extent to which existing programs and alternative funding programs and proposals contribute to the accomplishment of the objectives agreed upon for postsecondary education and the extent to which they respond to real changes in our society as identified in item I.

V. An analysis that describes the kind and amount of financial support for postsecondary education from the following sources:

A. federal
B. state
C. local
D. private
E. student participant and/or parents

In assembling data for this descriptive analysis, the Commission will not initiate major new data collection efforts, but rather, will draw heavily on existing sources such as federal and state agencies, research centers, institutions of postsecondary education, and foundations.

VI. A program analysis of existing funding programs, including a review of previous funding proposals and related literature; a listing of all federally enacted programs and the major programs enacted at the state and local levels; the collection of appropriate data; and the display of comparative information of the effectiveness of programs where available.

This analysis will utilize the measures developed above as the basis for determining the degree to which the objectives stated in item III. are accomplished.

VII. A projective analysis estimating the extent to which each of several alternative funding programs would achieve the objectives for postsecondary education agreed upon by the Commission. This analysis will consider those funding programs described in the charge to the Commission and alternative patterns of financing postsecondary education among levels of government, students, the families of students, and private sources.

VIII. Recommendations for national uniform procedures for calculating instructional costs per student, including:

A. The procedures recommended by the Commission.

B. A general discussion of costing problems and methods for calculating costs.

C. A rationale for the Commission's recommendations.

D. A statement of cautions to be applied to the implementation of the recommended procedures.

E. An analysis of anticipated costs to the institution of implementing such procedures in terms of dollars, additional man effort, staff and faculty morale, program adjustments, detrimental publicity, and numerous other factors.

F. A statement concerning the manner in which cost information should be used, displayed, and released, together with examples of misuse of such cost information.

G. Examples of cost information generated by the use of recommended procedures from several types of institutions. The examples will include descriptive information to be associated with the cost information.

IX. An assessment of the nature and causes of serious financial distress facing postsecondary institutions and recommendations of the combination of managerial improvements, instructional reforms, and additional governmental and private assistance to postsecondary education needed to ameliorate such conditions. The criteria used to measure financial distress and the conditions which have created such distress will be developed in the study.

The Commission plans to report its findings and recommendations in the following forms:

1. One or more short, concise, executive-level documents which can serve as a focus of policy discussion in the coming year to include:

a. The basic assumptions underlying the Commission's study.

b. A brief array of information that will be of practical use to state- and national-level policy makers in making judgments about the financial condition of postsecondary education and the likely impacts on national objectives of implementing the financing and structural recommendations of the Commission.

c. Recommendations concerning suggested national uniform standard procedures for determining the annual per student costs of providing postsecondary education for students in attendance at various types and classes of institutions of higher education.

d. Recommendations concerning suggested funding to accomplish objectives relative to:

(1) individual access
(2) institutional choice
(3) program diversity
(4) instructional and fiscal accountability
(5) assignment of institutional responsibility for postsecondary education

e. Other findings and recommendations as the Commission deems appropriate.

2. A more comprehensive publication designed for the interested lay person seeking to understand in greater depth the rationale behind the executive-level report, including alternative recommendations considered and rejected.

3. One or more volumes of staff papers and technical reports that buttress the final executive-level report.

4. A brief report identifying those areas of postsecondary education that, in the judgment of the Commission, require additional investigation if the nation is to be able to improve its understanding and provision of postsecondary education services.

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COMMITTEES OF THE COMMISSION

The following committees have been appointed by the Commission:

Committee on the Conditions, Definitions, and Expectations of Postsecondary Education.

This committee is responsible for developing initial descriptions of present and anticipated social conditions relevant to postsecondary education, objectives concerning postsecondary education, and measures for evaluating the impact of funding programs on those objectives.

Marian W. La Follette, Chairman, J. Glenn Beall, Jr., John Dellenback, Tim R. Engen, Walter C. Mercer, John W. Porter, Louis P. Rodriquez, Sister Jane Scully.

Committee on the Analysis of the Adequacy and Impact of Funding in Postsecondary Education.

This committee is responsible for the initial development of the analytical projects of the Commission, including the development of uniform procedures for determining comparable costs and the criteria for the analysis of financial distress in institutions.

George Kaludis, Chairman, Ernest L. Boyer, John Brademas, Winfield Dunn, Dan M. Martin, Claiborne Pell, H. Reed Saunders, Ruth C. Silva.

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THE HUBRIS OF A PRESIDENT

Mr. McGOVERN. Mr. President, one of the Nation's most distinguished foreign correspondents is Mr. William L. Shirer. He has been a foreign correspondent for more than 20 years and reported developments in Berlin prior to the rise of Hitler. He is distinguished by his authorship of several books, including "Berlin Diary," and "The Rise and Fall of the Third Reich."

Recently, he authored a piece for the January 22 issue of the Nation magazine, "The Hubris of a President."

I ask unanimous consent that this perceptive article be printed at this point in the RECORD.

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

THE HUBRIS OF A PRESIDENT

(By William L. Shirer)

Though Richard Nixon does not have the dictatorial power of Adolf Hitler—at least, not yet—he has shown in Vietnam that he has the awesome means, unrestrained by any hand, and the disposition to be just as savage in his determination to massacre and destroy the innocent people of any small nation which refuses to bow to his dictates and which is powerless to retaliate.

And apparently the majority of the American people, like the Germans under Hitler, couldn't care less. While Nixon was celebrating the festivities of the Prince of Peace by his reckless, bloody, paranoiac bombing of Hanoi, our God-fearing citizens were preoccupied with the Washington Redskins and the Miami Dolphins fighting their way to the Super Bowl, and seemed unmoved by the barbarism of their President and its horrible consequences for his victims.

I lived through a similar barbarism in Germany, when Hitler unleashed his terror bombing to force certain foreign peoples to do his bidding. I never thought it could happen here at home—even under a Nixon. No one of any consequence in Nazi Germany publicly protested, but at least the Germans had some excuse. To have spoken out might have cost a man his head—or at the very least the horrors of a concentration camp. But no American, watching the results of this

President's violence over the Christmas holidays, viewing on his TV tube the shattered hospital in Hanoi, reading in his newspaper of the devastation Nixon was unleashing on the homes and streets of peaceful citizens, could have been restrained by such fears.

Yet, who, at no personal risk, denounced the monstrous crime? Not a single official in government, very few in the Congress, a few from labor and no one from big business, and not one notable churchman, Protestant or Catholic. There was not a peep from the President's friends among the clergy: no sound from the Rev. Billy Graham, the Rev. Norman Vincent Peale, or Cardinal Cooke (not even after the Pope had raised his voice against the bombing).

Perhaps this unconcern is due in part to the peculiar luck of Americans. Unlike the inhabitants of every other major country and scores of small ones, we have never been bombed, and hence cannot feel in our own flesh and minds the sufferings of those on whom our President wreaks his vengeance. As one who experienced to some extent in Germany the bombings by the British, and later in England the bombing by the Germans—it was minor, compared to what we have done in Indochina—I rejoiced that Americans had been spared that ordeal.

But no longer. It now occurs to me that, until we go through it ourselves, until our people cower in the shelters of New York, Washington, Chicago, Los Angeles and elsewhere while the buildings collapse overhead and burst into flames, and dead bodies hurtle about and, when it is over for the day or the night, emerge in the rubble to find some of their dear ones mangled, their homes gone, their hospitals, churches, schools demolished—only after the gruesome experience will we realize what we are inflicting on the people of Indochina and especially what we did over Christmas week to the common people of Hanoi.

Does one American in 1,000, or in 100,000, realize that, whereas the Germans dropped 80,000 tons of bombs on Britain in more than five years of war (and we thought it was barbaric), we dropped 100,000 tons on Indochina in the single month of last November, when Nixon restricted the bombing because of the Paris "peace" talks; and that under Lyndon Johnson and Richard Nixon we have dropped a total of 7 million tons of bombs on Vietnam, Cambodia and Laos—vastly more than we and the British let loose on Germany and Japan together in World War II? It was done in the name of "a just peace," of course. Has not Nixon said it dozens of times, his face on the TV screen frozen in unctuousness, as he sent his troops to invade a new country—Cambodia, Laos—or as he ordered his bombers to resume unloading tens of thousands of tons of more lethal bombs on a country which has no Air Force with which to defend itself?

Hitler, a bully also, mouthed the same hypocrisy. As François-Poncet, the French ambassador in Berlin, remarked after the Fuehrer sent his warriors out on the first of his conquests at the very moment when he was showering Europe with a new offer of peace: "Hitler struck his adversary in the face, and then declared: 'I bring you proposals for peace!'"

Is that not what Nixon has done in Vietnam? Where else, since Hitler, has the head of government of a supposedly civilized people declared through a spokesman to his own people (on the eve of an election, to be sure) that "peace is at hand," that 99 per cent of the issues have been negotiated and that only three or four more days of talks are needed to tidy up the agreement, and then (after he is elected) struck the people he has been negotiating with "in good faith" with the most savage bombing in history—and put the blame on them?

I said that after experiencing at first hand the Nazi terror toward others, it never occurred to me that it could happen at home. Has it? To a certain extent? Just a beginning, perhaps? Has Nixon shown that you don't need a totalitarian dictatorship like Hitler's to get by with murder, that you can do it in a democracy as long as the Congress and the people Congress is supposed to represent don't give a damn?

It can be extremely misleading to compare the Nazi regime in Germany with our own situation today. We are not a totalitarian dictatorship. The press, despite the Administration's assaults upon it, is still relatively free. Dissent, despite all the attempts of Nixon and his aides to silence it, is still heard. This article could never have been published under the Fuehrer. Nixon is no Hitler, though with his Christmas bombing he acted like one. The Americans could have thrown him out of office in November. The Germans, after the death of President Hindenburg in 1934, were stuck with Hitler. They had had a parliament, the Reichstag, which, if its members had showed any guts or wisdom, might have restrained him or even overthrown him in his first months of power in 1933, before he tricked it into committing suicide. We have an elected Congress, which had the constitutional power to prevent our Presidents from taking the nation into war in Vietnam and the power to take it out quickly. It abdicated that power. Like the Reichstag, its members were partly tricked (by such things as the Tonkin Gulf frame-up and other Presidential deceits) and like the German parliament its members have thus far lacked the guts or the wisdom to exercise the power the Constitution gave them.

Here begin the similarities. Are there others? One, I think, is in the attitude of Nixon toward the people. "The average American," he told a Washington Star reporter on the eve of his re-election, "is just like the child in the family." The implication was that the average citizen could easily be manipulated by Papa. It is, of course, a form of contempt for the common people. Disraeli, to whom Nixon compared himself in the same interview, had it, but surely the great Presidents—Jefferson, Lincoln, Wilson, Roosevelt, Truman, even Eisenhower—did not. Hitler, for all his professed love of the German people and his attempt to make of them the Master Race, had a profound contempt for them. He thought they were simpletons, at least politically—you could do anything with them. He called them, as Trevor-Roper has pointed out, Dickshaedel, Querschaedel, Dummkoepfe—blockheads and ninnies without political sense. But he would add: "Even stupid races can accomplish something, given good leadership." Once at a Nuremberg party rally, when asked to explain why the German masses became so delirious at these pageants, especially when he spoke, Hitler told a group of American correspondents—off the record—in words almost identical to Nixon's, that it was because they were children at heart. "What luck for rulers," he exclaimed on another occasion, "that men do not think!"

And in these days I cannot help recalling an opinion vouched by one of Hitler's woman secretaries after his death. "Though Hitler," she recalled, "ranged over almost every field of thought. I nevertheless felt that something was missing. . . . It seems to me that his spate of words lacked the human note, the spiritual quality of cultivated man. In his library he had no classic work. No single book on which the human spirit had left its trace.

There were other things in Nazi Germany which recent happenings in this country have forced me, at least to recall:

(1) Justice and the courts. One day in 1936 Hans Frank, the Nazi Minister of Justice (who was later sentenced to death at Nuremberg and hanged), called in the members of the bench and gave them a little advice: "Say to yourself at every decision that you make: 'How would the Fuehrer decide in my place?'" One wonders some times—I mean no disrespect to our judges—if some of the eminent jurists appointed by the President, especially those on the Supreme Court, do not at the moment of decision say to themselves: "How would President Nixon decide in my place?" Nixon's Front Four on the High Court: Burger, Blackmun, Rehnquist and Powell—joined often by "Whizzer" White, Kennedy's only contribution to that bench—have shown a teamwork that must be the envy of Coach Allen's fearsome Front Four, and they have used it increasingly to limit freedoms supposedly guaranteed by the First Amendment, to take but one example. In doing so they cannot have failed to please Nixon. Did he not boast that he appointed only those who shared his philosophy? Most other Presidents have been proud of trying to keep a balance on the Court.

(2) *Assaults on the freedom of the press, First Amendment guarantees dissent.* Obviously we have not fallen as far as Nazi Germany, but are we not on our way? Have not Nixon and his minions carried on for four years an assault on our press freedoms and on the right to dissent—and not without success? They have intimidated the networks, threatened TV station owners with loss of their licenses if they do not, in effect, censor network news critical of the Administration, and successfully gone to court to induce the Supreme Court to rule 5 to 4 that the First Amendment does not give reporters the right to protect their confidential sources—a telling blow to our press freedoms. On the other hand, the Administration, by propaganda, deceit, evasion, playing favorites, and by expert use of the power of the White House to make news and control it, has done very well in putting its own story over in the press. But this has not satisfied Nixon.

I sometimes wonder if he, and Klein, would envy the way the press was handled in Berlin in the days when I was working there. Every morning the editors of the capital's newspapers and the correspondents of out-of-town German journals were made to assemble at the Propaganda Ministry and told by Goebbels or one of his aides what news to print and what to suppress, how to write the news and headline it, and what editorials were to be written that day. To avoid any misunderstandings, a daily written Directive was furnished at the end of the oral instructions. For smaller provincial papers and periodicals without representatives in Berlin, Directives were sent by wire or mail. Radio (there was no TV then) was handled separately but similarly. Every editor, reporter, newscaster and commentator knew each day exactly what to write or say, and did it. Very simple and effective. Nixon's task obviously is more difficult, but he keeps plugging. As one of our great historians, Henry Steele Commager, wrote recently: "Never before in our history . . . has government so audaciously violated the spirit of the constitutional guarantee of freedom of the press."

(3) *Terror bombings, "targeting military objectives only," and the lies about them.* Here we come closer to the Nazi example. Hitler invented terror bombing (unless you count Mussolini's puny effort in Ethiopia), starting with Guernica in Spain and going on to Warsaw, Rotterdam and Coventry. Nixon has been an apt pupil, increasing the terror by more and bigger bombs, but sticking to the same lies about "targeting military objectives" and the same denials of damage to nonmilitary objectives. Nixon's aides, Ronald Ziegler at the White House and Jerry Friedheim at the Pentagon, seem more adept at this business than even Joseph Goebbels. More adept and just as arrogant.

Zeigler, speaking for Nixon, offered two justifications for the Christmas resumption

of the bombing—both offensive to the truth and to an American's intelligence. First, he linked the bombing to the threat of another Communist offensive: "We are not going to allow the peace talks to be used as a cover for another offensive." But he offered no evidence of an offensive, and the American Command in Saigon admitted it knew of none pending, nor did anyone in Washington. Next, Ziegler, speaking for his silent boss, declared that Nixon was "determined" to continue his bombing until Hanoi decided to resume negotiations "in a spirit of good will and in a constructive attitude." In the Hitler-Nixon double-talk that meant, "until Hanoi agrees to accept a peace that we dictate."

Jerry Friedheim at the Pentagon was worse—he was pure Goebbels. Twice, on December 27 and 29, he denied that we had damaged Hanoi's Bach Mai Hospital and attributed the reports to "enemy propaganda." The effrontery of this staggered a man who had listened to Goebbels' lies time after time. That was because, two days before the first denial, Telford Taylor, a distinguished lawyer, a retired brigadier general and our chief prosecutor at Nuremberg, had cabled *The New York Times* from Hanoi an eyewitness description of the bombed-out hospital. Moreover, millions of Americans had seen on TV Japanese and Swedish films of the hospital's devastation. Even when Friedheim finally admitted, on January 2, that "some limited accidental damage" had been done to the hospital, he suggested that it might have been caused by "North Vietnamese ordnance or aircraft."

I say Friedheim was pure Goebbels (and like him probably lying at the master's orders) because, after a German submarine had torpedoed the British liner *Athenia* on the first day of World War II, I heard Goebbels, first at a press conference and then over the air, deny categorically that the Germans had sunk the boat and then accused the British of having done it. I will pass over Friedheim's bland assertion that if an American POW camp had been hit, as reported, Hanoi would be held responsible—"under the Geneva Convention." But it did remind me of Hitler's declaration on the mornings, he attacked Norway, and later Holland and Belgium, that if they resisted they would be held responsible for the bloodshed. After Friedheim's performance, according to *The New York Times* of January 5, he was awarded the Defense Department Metal for Distinguished Public Service, with the citation; "He has provided with faultless professionalism clear, concise, accurate and timely information concerning the worldwide activities of the Department of Defense."

Did the President become enraged when Henry Kissinger returned from Paris without the agreement he had demanded and in his fury ("You can't do that to Richard Nixon!") order the resumption of the murderous bombing—Christmas or no? We do not know for sure, and probably never will, though Washington seethed with rumors, unconfirmed, that such was the case. Perhaps "high-ranking U.S. officials in Saigon," as an A.P. dispatch called them, were, for once, telling the truth when they said, according to the news agency, that "the ultimate purpose of the bombing was to punish Hanoi," and that "President Thieu had been told that President Nixon's strategy is to devastate North Vietnam."

It recalled a scene, which was confirmed, on the night of March 26, 1941, when news reached Hitler that the pro-Nazi government of Yugoslavia had been toppled and replaced by one that might not do the Fuehrer's biding. The news, according to some of those present in the chancellery, threw Hitler into one of the wildest rages of his life. He took it, they said, as a personal affront—you couldn't do that to Hitler. He called in his generals and ordered them "to destroy Yugoslavia militarily and as a nation"—a stenographer noted down his words. "Yugloslavia," he added, "would be crushed with unmerciful harshness." He ordered Goering to "destroy Belgrade in attacks by waves" of bombers. That was done; the town was razed. Like large parts of Hanoi these past days.

It could have been, of course, that Nixon made his Yuletide decision to devastate Hanoi in a completely different mood—in a moment of icy calculation. Hitler was in that kind of mood on September 29, 1941 as his armies neared Moscow and Leningrad. His Directive to his army commanders that day began: "The Fuehrer has decided to have Leningrad wiped off the face of the earth. The intention is to raze it to the ground by artillery and continuous air attack. The problem of survival of the population (3 million) is one which cannot and should not be solved by us." He issued a second Directive to the same effect for Moscow. Is it possible that Nixon issued a similar Directive for Hanoi in the same cold-blooded mood? The A.P. report from Saigon indicates the possibility.

(4) Hitler got by with murder because there was no restraining hand upon him—from any source. Did any hand in Washington try to restrain Nixon when he ordered the invasion of Cambodia and Laos, and especially when he ordered the devastating Christmas bombing of Hanoi? We do not know. But we know he did not consult the Congress. He did not confide in it or in the people.

Perhaps we are experiencing here what the Greeks called *hubris*, the sin of overweening pride. It has brought the downfall of so many conquerors—of the Greeks themselves, the Romans, the French under Napoleon, the Germans under Wilhelm II and then Hitler. And we are seeing in Washington what I saw in Berlin in the Nazi time—how power tends to corrupt and absolute power corrupts absolutely.

NATION'S ENERGY SHORTAGE

Mr. STEVENS. Mr. President, this Nation's energy shortage is manifesting itself most noticeably in gasoline shortages around the country, and the worsening situation was the subject of an article in the April 16, 1973, issue of the Oil and Gas Journal. I believe this article, and the situation it describes, is one more factor pointing to the necessity of moving as rapidly as possible to provide U.S. markets with crude oil from Alaska's North Slope, where one-fourth of this Nation's known oil reserve is located.

I draw my colleagues' attention to the article in the hope that it will help to put the energy shortage in perspective. The situation, quite frankly, is not good, and shows few signs of getting better without increased supplies of crude oil.

One of the ways the United States can increase its domestic supply of crude oil is to provide a transportation system for the crude oil that was discovered on Alaska's North Slope in 1968. The most economical, environmentally feasible transportation method is the trans-Alaska pipeline, and I sincerely hope it will be possible to begin construction of the pipeline system as soon as possible, so it can be sending crude oil to the U.S. west coast by 1976 or 1977.

I ask unanimous consent that the article I just mentioned be printed in the RECORD.

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

SEVERITY OF U.S. GASOLINE PINCH TIED TO DEMAND GAIN

Shortages of gasoline already are occurring in scattered sections of the country—even before the heavy motoring season starts. They will become more frequent and severe as vacation travel picks up.

But whether the American motorist runs into drastic shortages that severely curtail his driving habits and ultimately result in wartime-type rationing is an open question.

The American Automobile Association has advised that motorists planning to travel this spring and summer need not worry about reports of a gasoline shortage. The Office of Emergency Preparedness has announced there is no need for gasoline rationing, based on its analysis of the situation (OGJ, Mar. 26, p. 58).

The factors. Petroleum supply-demand specialists interviewed by Oil and Gas Journal editors, however, are not all that sure. They say the gasoline supply will be tight in any event. And whether critical shortages are averted depends on a complex set of factors, including:

Demand holding to an increase of only 5% or 6% above the year ago. Any greater increase—and it's very possible—will mean trouble.

Imports ranging from 100,000 b/d to 200,000 b/d. It's a toss-up whether this much product is available abroad; if so, it will be more expensive than the frozen levels of domestic products.

Refineries operating at high levels of at least 91% of capacity with gasoline yields of better than 48%. Whether this is possible will depend on crude availability, avoidance of breakdowns, and just how much distillate the refiner feels he must produce.

Nearly all industry analysts agree that whatever happens this summer will be mild compared to the prospects for shortage next year.

NEW AUTOS

Most analysts believe that the increase in gasoline demand this summer must be held within a 5–6% range if the nation is to escape serious shortages. And the key to trouble is late-model autos with their gas-consuming emission-control devices.

The latest trends indicate that there may be problems holding down demand. The demand increase for the first 9 months of 1972 was 6.2%, compared with gains in previous years ranging from 2.4% to 4.9%. In the first 2 months of this year, demand was averaging a fat 9% over last year.

The 1970–73 model autos are chiefly responsible. They consume more gasoline than earlier models; just how much is a matter of dispute. Available data indicate the mile/gal. loss will run from 7 to 19% over the four model years.

One private set of fleet tests indicated the mileage loss of 1971 models over 1970 at 7%, 1972 at 6%, and the 1973 over 1972 at 8%. This represented a cumulated mileage loss of 19%; but two direct comparative tests of 1973 models against 1970 models showed a loss ranging from 11% to 17% depending on the number of miles the 1970 models had been driven prior to testing.

These data showed much greater mileage declines than governmental tests made for the Environmental Protection Agency which reported losses of only about 7%.

A profile of the late-model autos showed they average less horsepower, lower compression ratio, and greater weight—all of which lower their efficiency and, along with the emission control devices, account for the loss in miles per gallon. New safety requirements are responsible for most of the added weight (Table 1).

So far as gasoline consumption is concerned, the miles/gallon loss is compounded by the driving habits of Americans. They tend to drive new cars more (see Table 2). Motorists will average driving a car 13,200 miles in the first year, according to one conservative

estimate. This drops to 11,000 in third year, 7,000 in ninth and 4,300 in twelfth.

Another estimate put 1st year at 15,000 miles; 2nd at 13,000, 3rd 11,000, 4th 9,500, 5th 8,500, and then 6,000 for remaining life of the car. This means simply that the late-model cars have a much greater impact on gasoline consumption than their numbers would indicate.

A Chase Manhattan Bank analyst estimated for example, that one-half of the expected growth of gasoline demand in 1973 will represent additional fuel consumption due to emission controls on the late models.

Current troubles arise because in the last several years gasoline demand has been rising much faster than the output of refineries.

REFINERS THE KEY

A Journal analysis shows how vital refinery operations this summer are to avoiding a gasoline crisis (Table 3).

Journal data place refinery crude capacity at 13,383,000 b/d (API estimate of capacity is 13,620,000 b/d, some 237,000 b/d or 1.7% higher and thus will show greater production at lower capacity levels).

The study shows that with a 6% jump in demand if refiners on a national scale operate at 90–92% of capacity and get a gasoline yield of 46–46.5% (see table) they must import 125,000 b/d of gasoline and draw down stocks to 27.4 days' supply at the end of September, a perilously low point.

Refiners can avoid a stock drawdown with yields of 47–48% and imports of 125,000 b/d or yields of 48–48.5% with little imports. If demand should average a 7% gain, yields would have to reach 47.5–48.5% with imports and 48.5–49% with no imports.

If crude supplies should limit refinery operations to 89% of capacity, the drain on inventories would be almost intolerable, and the need for imports could exceed available supplies.

One major company analyst estimates that operations at 89% of capacity with a 5% growth in gasoline demand would pull stocks nearly 19 million bbl below last year at the end of September. With a 7% demand growth, the drawdown would be more than 56 million bbl.

Some analysts doubt the refining industry can sustain operations exceeding 91% of capacity for prolonged periods even if enough crude is available. The strain on aging equipment, they believe, would inevitably cause breakdowns which would bring the operating average down.

This set of circumstances explains why many observers conclude that gasoline demand this summer must be contained within the 5–6% range. The refining industry just can't keep up with constant increases in demand without renewing and expanding plants.

WEST COAST STORY

The outlook for gasoline west of the Rockies is somewhat easier, although not without problems.

Gasoline demand in Dist. 5 took a 75% jump last year, and a 6% increase is expected this year. This means an additional 55,000 b/d of gasoline must be supplied.

The new supply, according to analysts, can come from increased runs (they were only 86% of capacity last year), a drawdown on stocks, or imports. Crude runs already have been stepped up. The 43 refineries in the district, with rated capacity of 2,138,000 b/d operated at 1,839,000 b/d last year and in the first month of 1973 averaged about 2,000,000 b/d.

Overall crude supply should be ample on the West Coast. The previous quota for imports—850,000 b/d—has been raised to 950,000 b/d. Under ordinary circumstances, this level should be adequate. However, some refineries—mainly the smaller independent plants—have limited capability to adapt to different types of crudes and limited flexibility in transportation facilities to bring in foreign crude. The big problem is getting the crude to refineries that can use it.

IMPORTS AVAILABLE

Since the United States needs to bring in both crude and products in unusual volumes this summer and fall, supply abroad becomes a vital question.

Whether U.S. refineries can operate even at 91 or 92% capacity and churn out enough gasoline depends on availability of crude—mostly low-sulfur crude. Much of the U.S. refining establishment must have this sweet crude to operate. So must European plants. As a result crude of less than 0.6% sulfur has become practically unavailable on world markets, and the countries that have it are in a mood to charge whatever the market will bear.

The air pollution regulations in this country have aggravated the sweet crude situation worldwide. Several big Caribbean and foreign refiners are snaring sweet crude to make low-sulfur residual fuel without putting in expensive hydrodesulfurization equipment. Northern European refiners who built on the basis of sweet crude are not about to revamp their plants to refine sour crude out of the kindness of their hearts, especially since they see eventually big volumes of sweet crude coming from North Sea fields.

A temporary relaxation of air-pollution rules would have a domino effect on sweet crude, making supplies now going into production of distillate and residual available for gasoline.

EUROPEAN PRODUCT?

As for gasoline imports, at least one company executive believes Europe probably can supply U.S. needs this year. Europe, however, has a very shallow gasoline pool; and, with demand there soaring also, the long-term prospects for export supplies are not favorable.

Total refining capacity in Western Europe—Belgium, France, Germany, Italy, Netherlands and the U.K.—is 14.4 million b/cd with gasoline-making potential of only 14.8%.

Caribbean refiners are in a similar position. This compares with the U.S. ratio of 41.3%.

Europeans also are very supply conscious. There are regulations in several countries that require long-term product reserves in storage to protect against emergencies. Refiners would be reluctant to draw on these reserves for export.

And if Europeans sell gasoline to the U.S., it won't be at a cut-rate price, rest assured. Premium laid down in New York recently ran 20c/gal which meant that under price ceilings existing then the U.S. importer lost 5c/gal. As one executive put it, "Import one lousy 20,000-ton cargo and you lose almost $400,000."

HOW ABOUT TANKERS

A final import question: Are tankers available to bring in gasoline? Company traffic executives believe this can be solved this summer.

If imports should average 125,000 b/d, requirements would be 30 to 40 T2-equivalent tankers. The usual ship in this trade would be in the 30,000 to 40,000-wt range. There should be enough ships made available by switching from crude and resid service. Grain ships returning from the Black Sea also will be looking for clean backhauls.

Rates might rise initially, but this would attract more ships which would tend to level off charter prices again. Only immediate problem foreseen is if owners for some reason elect not to switch their ships from normal "dirty" service—crude and resid—to "clean" cargoes for such a short period.

TIME RUNNING OUT

Time is perhaps the final factor blocking large product imports this summer.

A European refiner, for example, needs to nominate crude in the Persian Gulf, and it takes a month to get it to port. Shipping the crude to Europe may require another month processing it a week more, and moving gasoline to the U.S. about 18 days.

In other words, the time to order gasoline for U.S. arrival in July was no later than April 1. One supply manager observes, "It's already too late for gasoline—we should be working now to import distillate for next winter."

NEXT YEAR?

There's general agreement that whatever happens this summer, it'll be worse next year.

A study by Petroleum Industry Research Foundation (OGJ, April 9, p. 38), for example, projects that the region east of the Rockies alone will need to import from 237,000 to 265,000 b/d of gasoline in 1974 and 478,000 to 572,000 b/d in 1975. And an import level of 300,000 b/d is considered the maximum that can be realistically expected for 1975. This means a physical shortage of 3–5% of total demand is likely for the region in 1975.

The study points out that a very sharp increase in the price of gasoline will be needed to balance supply and demand in the next few years. And in the absence of price correction either voluntary or compulsory rationing is the only alternative.

The possibility of rationing is being considered by others, too. One major executive expresses the blunt opinion that "wartime rationing of gasoline and fuel oil" should be imposed immediately to prevent a crisis this summer and a disaster next summer. "There is plenty of fuel oil and gasoline to go around—for the necessities," he said. "But the motoring public must realize it can no longer take that Sunday afternoon drive."

Some others mention dampening gasoline demand by stiff price increases or heavy taxes on autos by horsepower, weight, and gasoline-consuming accessories.

The majority supports a national policy that will encourage both domestic production and refining and also importation of crude and products. This will mean decisions on environmetal roadblocks and prices.

EARLY IMPACT

Signs of coming problems this summer already are abundant. The daily press has been reporting cries of anguish in gasoline markets over the country since late winter.

In many cases, the shortages are more anticipated than actual. They reflect actions by major suppliers who are changing their marketing methods to fit new conditions. The suppliers, in effect, already are imposing some rationing at the wholesale level. It is taking many forms: cutting back jobbers and dealers by a percentage of 1972 volume, or holding them to 1972 levels, or cutting out sales on the spot market, or holding industrial accounts strictly to contract levels or even refusing to renew contracts, and declining to take on new business.

In addition, many suppliers are dropping some of their old business. They aren't bidding on fuels contracts for governmental agencies or some industrial accounts that go for discounted prices. And several major suppliers have pulled out of entire regional markets where their operations have been marginal.

Opposition to the moves has been highly vocal. Independent jobbers and dealers have been hit the hardest, but so have some branded distributors. The independents charge the majors are cutting them down to supply the company-owned outlets. Governmental agencies and commercial consumers charge the majors are guided merely by profits in cutting out the discounted sales.

It's even difficult for the majors to shed some of their marginal markets or allocate

jobbers. At least three have been taken to court over their efforts.

Regional abandonment of markets, however, has been accomplished successfully—by Sun in eight upper Midwest states, Gulf in a 13-state, $250-million pullout, Amoco on the West Coast, Phillips in the Northeast, and ARCO in the Southeast.

TIGHT EVERYWHERE

The marketing shakedown has reached into nearly every corner of the country.

In Los Angeles, 200 stations put on allocation by Texaco reduced business hours and cut back on personnel. A Whittier, Calif., independent planned to close some of his 100 private-brand stations. A Chico, Calif., truck stop faced shutting down.

In Oregon, a jobber reported he was cut off entirely from supply. Another said he had been limited by his supplier to winter volumes which are 50% less than summer business.

An Arizona independent chain operator reported "I'm in the worst shape I've ever been in for supply." The Northwest Petroleum Association declared in Minneapolis that a shortage of wholesale gasoline existed in Minnesota, North and South Dakota, and parts of Iowa, Nebraska and Illinois.

City purchasing agents in Des Moines and Dallas and state buyer in New Hampshire have had trouble getting bids on their gasoline business; and the city buses in New Orleans are threatened with lack of gasoline.

On the East Coast, the Connecticut attorney general ordered an investigation of oil-company allocation plans which he charges are aimed at driving independents out of business. In Virginia, a Richmond independent claimed he has been on allocation for months and has cut back on the hours his stations remain open. In Florida, several independents, including Sears, have run short of supply and have had to ration customers.

The uniformity of the gasoline problems throughout the nation leaves no doubt that supply already is snug. And further evidence is seen in the end of price wars, closing of marginal marketing operations, and the pressure on independents.

Refiners can sell all the gasoline they can possibly manufacture. So there's no reason to engage in price cutting to maintain market position or gain volume. With costs rising, its also good judgment to shut down low-volume outlets and concentrate business at high-volume stations, where unit costs will be lower.

The squeeze on independent jobbers, wholesalers, and dealers is already evident, and it is not difficult to explain. For the last few years, independent marketers have been the fastest growing segment of the gasoline trade. Their share of the market both as private brands and as independent distributors of branded gasoline, has reached about 30%. But at least half of their supply has come from major refiners, who have used the independents as an outlet for excess gasoline.

But the surplus is gone, and it's logical that refiners channel their limited available supply to directly owned or controlled market outlets.

The speculation is that independents ultimately will have to buy higher-priced foreign gasoline. And the result will be a narrowing of the price differential between independents and majors.

Simply put, gasoline marketing is undergoing a revolution that involves everyone—producer, refiner, marketer, and motorists. The odds favor the nation squeaking through on gasoline this summer; but unless supply-demand trends change soon, severe shortages are inevitable next year.

TABLE 1.—A LOOK AT LATE-MODEL AUTOS

	1970	1971	1972	1973
Horsepower [1]	268	253	168	165
Compression ratio	9.5	8.6	8.5	8.4
Axle ratio	2.74	2.74	2.74	2.77
Weight (pounds)	4,362	4,403	4,505	4,653
Acceleration (seconds):				
0 to 60 miles per hour	10.7	12.0	12.8	13.0
25 to 60 miles per hour	7.8	8.5	9.6	9.5
Miles per gallon	14.1	13.1	12.4	11.6

[1] 1970-71 data are gross horsepower, 1972-73 are net horsepower. All data are based on fleet tests of autos representing range of models produced by GM, Ford, Chrysler and are not averages for all U.S. autos.

TABLE 2.—NEWER CARS GET MORE DRIVING

Car age	Miles driven/year
1 year	13,200
3 years	11,000
6 years	8,700
9 years	7,000
12 years	4,300

TABLE 3.—A LOOK AT U.S. GASOLINE-MAKING CAPABILITY

Yield	Refinery gasoline (barrels per day)	Natural-gas liquids and other hydrocarbons (barrels per day)	Total production (barrels per day)
A. At 90 percent of crude capacity (12,045,000 barrels per day of crude and 146,000 barrels per day rerun for total refinery input of 12,191,000 barrels per day:			
45 percent	5,486,000	856,000	6,342,000
46 percent	5,608,000	875,000	6,483,000
47 percent	5,730,000	894,000	6,624,000
48 percent	5,852,000	913,000	6,765,000
49 percent	5,974,000	932,000	6,906,000
50 percent	6,096,000	951,000	7,047,000
B. At 91 percent of crude capacity [1] (12,179,000 barrels per day of crude and 148,000 barrels per day rerun for total refinery input of 12,327,000 barrels per day:			
45 percent	5,547,000	866,000	6,413,000
46 percent	5,670,000	885,000	6,555,000
47 percent	5,794,000	904,000	6,698,000
48 percent	5,917,000	923,000	6,840,000
49 percent	6,040,000	943,000	6,983,000
50 percent	6,164,000	962,000	7,126,000
C. At 92 percent of crude capacity [1] (12,312,000 barrels per day of crude and 149,000 barrels per day rerun for total refinery input of 12,461,000 barrels per day):			
45 percent	5,607,000	875,000	6,482,000
46 percent	5,732,000	895,000	6,627,000
47 percent	5,857,000	914,000	6,771,000
48 percent	5,981,000	933,000	6,914,000
49 percent	6,106,000	953,000	7,059,000
50 percent	6,231,000	972,000	7,203,000

[1] OGJ percent of capacity figures

FINANCIAL STATEMENT OF SENATOR AND MRS. ADLAI E. STEVENSON III

Mr. STEVENSON. Mr. President, I have made it a practice for many years to disclose publicly all my economic interests. In accordance with that practice, I ask unanimous consent that a statement of the assets and liabilities of myself and my wife, as of April 1, 1973, be printed in the RECORD. I update these statements quarterly, keeping copies in my Washington and Chicago offices available for public inspection.

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

Consolidated financial statement of Senator and Mrs. Adlai E. Stevenson III, April 1, 1973

REAL ESTATE	
Home, Chicago, Ill	$90,000
Home, Washington, D.C. (cost)	125,000
One-third interest, residence, Beverly, Mass	30,000
Interest in farm, Jo Daviess County, Ill	67,500
Fractional interest, Fisk Building, Amarillo, Tex	3,200
Fractional interest, 1776 Pennsylvania Avenue, Washington D.C	20,000
Fractional interest, 633 Folsom Street, San Francisco, Calif	12,000
Real Estate—St. Maarten Island	8,000
10 percent undivided interest in real estate, Tiburon, Calif	66,195
STOCKS AND BONDS	
12,640 shares, Evergreen Communications, Inc. (publishes Bloomington, Ill. Daily Pantagraph, operates WROK, Rockford, Ill. and WJBC, Bloomington, Ill., owns 10 percent of Bloomington, Ill. CATV)	160,000
3 shares, Bloomington Broadcasting Corp., class B, nonvoting	1,500
533 shares, KBA Townbuilders Group Ltd., Tel Aviv	550
34.1 shares, R. R. Leaseholds, Inc	500
The market value of the following stocks and bonds as of Mar 31, 1973:	
10,000 bonds, Baltimore, Md., 6.25 percent, 10/15/84	10,991
International Harvester Commercial paper	1,000
98 shares, International Business Machines	42,287
210 shares, Xerox	31,763
442 shares, Harris Intertype	15,470
300 shares, Spectra Physics, Inc	6,750
300 shares, General Electric	19,350
400 shares, Pfizer, Inc	16,500
300 shares, Marcor, Inc	6,525
70 shares, Louisville Gas. & Elec. Ky	2,188
156 shares, R. R. Donnelley & Sons	3,588
300 shares, Zayre Corp	5,250
300 shares, Rorer-Amchem, Inc	9,675
200 shares, Aetna Life & Casualty	12,950
450 shares, Narco Scientific Industries	8,100
400 shares, Robert Shaw Controls	10,500
CASH	
Less current obligations	0
MISCELLANEOUS	
Personal property, including securities of nominal value, furniture, cars, paintings and clothing	50,000
Total	837,332

DEBTS	
Mortgage—Perpetual Building Association, Washington, D.C	77,327
Mortgage—Continental Bank, Chicago, Ill	17,306
Note payable to Charles J. and Charlotte T. Whalen	$3,375
Total	98,008

THE PROPOSED CLOSING OF NAVAL FACILITIES ON NARRAGANSETT BAY

Mr. PELL. Mr. President, on Saturday, May 12, I attended a demonstration by thousands of Rhode Islanders who congregated on the steps of the west front of the Capitol to petition the administration for redress of their grievances. These Rhode Islanders are on the verge of losing their jobs, losing their homes, and losing their belief in a sense of fair play by our Government.

Mr. President, along with my colleagues in the Rhode Island congressional delegation. I have met twice with Mr. Elliot Richardson in his capacity as Secretary of Defense. On both occasions, I presented what I believed to be irrefutable arguments based on considerations of strategy, economy, and efficiency, which were prepared by my office in concert with the General Accounting Office. I must say that the logic of my arguments has apparently fallen upon deaf ears. From these arguments the logical conclusion must be that the present Naval facilities on Narragansett Bay should remain. But we are told, for example, that the main reason for the closure of Quonset Naval Air Station is that the 8,000-foot runway is too short to accommodate modern jets. Yet I am informed that the Navy has a carrier air wing, consisting mostly of jet aircraft, stationed overseas in Japan, using an 8,000-foot runway at Atsugi Air Base. And in fact, the Navy has projected a buildup of the force at Atsugi Air Base.

Furthermore, we have been told that the Navy will save millions of dollars by shifting naval units from Newport to Norfolk and other southern ports. However, the Department of Defense has requested in its military construction budget for fiscal year 1974, more than $55 million for naval construction at Norfolk of which the largest single item is $9.6 million for a new berthing pier at the Norfolk Naval Station. Indeed the major reason for spending this $55 million in Norfolk is to accommodate 9,000 naval personnel who will be moving there from Newport.

Mr. President, at this point I ask unanimous consent that there be printed in the RECORD an article which appeared in the Washington Post on Sunday, May 13, concerning the demonstration which was held at the Capitol—exhibit A; a resolution of the Joint Councils of Newport, Middletown, and Portsmouth, R.I., relative to the decision to transfer the Navy fleet from Newport—exhibit B; a statement by the Council of Presidents, representing all labor and management unions and organizations at Quonset Point Naval Air Complex—exhibit C; a statement by the Newport County Chamber of Commerce—exhibit D; a report from the Save Aquidneck Island Fund—exhibit E; and a copy of a letter from the Newport Chamber of Commerce to the President of the United States—exhibit F.

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

EXHIBIT A

3,500 FROM RHODE ISLAND PROTEST LOSSES OF 20,000 JOBS

(By Eugene L. Meyer)

Franklin Pretto Jr., who is 11 and lives in West Warwick, R.I., had doctored a Nixon campaign sign. He had written, "R.I. Economy Needs You" above the line "Now More Than Ever." An American flag topped off the placard.

Franklin Jr. and his father, who voted to re-elect the President, were among an estimated 3,500 Rhode Islanders who came here yesterday by train, bus and car to protest defense cutbacks announced last month, five months after the election. They had a motorcade, rallied at the Capitol and some went to the White House to pass out leaflets opposing the cuts, which ended some 20,000 jobs in Rhode Island.

In interviews, they told of their feelings of political betrayal and personal economic disaster that had brought them to Washington.

"I voted for Nixon, damn it," said Pretto Sr., 53, a 25-year employee of the Naval Air Re-work Facility at Quonset Point "What am I going to do, a man of 53" he asked. "What does a man of 53 do when the economy drops out from under him? I haven't been able to answer it."

Robert Theroux, a power-house mechanic at Quonset Point for 22 years, 44, father of four boys aged 4 to 9, also described himself as a "disenchanted" Nixon voter.

"I was born, raised and will probably die in Rhode Island," he added. "I'll never move. They offered me a job in Adak. You know where that is? That's in the Aleutian chain. A punishment post. The sun shines three hours a day there."

"I voted for Mr. Nixon for selfish reasons," said Salvatore Conti, a Quonset Point aircraft quality inspector and an organizer of the protest. "I was concerned about my job."

Conti said that more than 3,000 Quonset Point workers will lose their jobs in five months. "I don't understand the urgency," he said. "Why so fast? This isn't a private industry going bankrupt. Why can't we be given a little more time?"

Roger Larrivee, metal-smith, predicted the shutdowns would have a "chain reaction" effect on the general economy of the affected areas. "The Navy kids go to public schools. That means the school is affected, and the teachers. Also the restaurants, cleaning stores. It just goes down the line."

Rhode Island gave the President a 72 per cent vote last November. A campaign ad had appeared in the State's newspaper warning of disastrous defense cut-backs should Senator George McGovern be elected.

'We consider this our own little Watergate," said Sen. Claiborne Pell (D-R.I.) in an interview after the rally.

EXHIBIT B

MIDDLETOWN, R.I.,
May 7, 1973.

Senator CLAIBORNE DEB. PELL,
Congress of United States,
Washington, D.C.

DEAR SENATOR PELL: At a Grand Committee meeting of the Joint Councils of the City of Newport and the Towns of Middletown and Portsmouth, Rhode Island, held on May 2nd 1973, it was voted to pass the enclosed resolutions relative to the decision to transfer the Naval Fleet from the Newport, Rhode Island area and requesting that the General Accounting office furnish this Council with a report dealing with the cost versus savings as a result of the Naval Realignment Program.

Sincerely yours,

FRANK N. CAMPAGNA,
Town Clerk.

RESOLUTION OF THE JOINT COUNCILS OF NEWPORT, MIDDLETOWN, PORTSMOUTH, R.I.

Whereas, On April 16, 1973 the Councils and the citizenry of Aquidneck Island were shocked by receiving the astounding and unbelievable information that, as a result of the United States Navy Shore Establishment Realignment Program, the Naval Base, Naval Supply Center and Naval Hospital will be disestablished, the entire Naval Fleet and related activities will be transferred from the Newport area, and

Whereas, the economic impact of this action on Aquidneck Island will be disasterous in that the economy of the area has been geared almostly solely on the presence of the Naval facility, and

Whereas, the Joint Councils of Aquidneck Island, justly concerned with the welfare of it's citizens, serves notice that the proposed action of the Department of Defense will result in a catastrophic situation, now therefore be it

Resolved, the Joint Councils of Aquidneck Island, meeting herewith in Grand Committee, hereby requests that the Department of Defense reconsider this drastic decision and prevent a state of chaos that may well result and, in the event this decision is in fact deemed irreversible and in consideration of the economic well being of the citizens of Aquidneck Island in order that they may commence constructive action relative to the Island's economic recovery, it is imperative that the Federal Government order that normal bureacratic, time consuming methods of releasing surplus Federal property be set aside and immediate action be taken to make available to the communities of Aquidneck Island all Federal properties and facilities not considered absolutely necessary to the operation of the remaining military activities, and be it further

Resolved, that certified copies of this resolution, signed by the Honorable Humphrey J. Donnelly, III, Mayor of Newport, the Honorable Robert M. Silva, President Middletown Town Council, the Honorable Laurent L. Rousseau, President Portsmouth Town Council, be transmitted to the Honorable Richard M. Nixon, President of the United States, the Secretary of Defense and the Congressional delegation from the State of Rhode Island.

Sponsor: Robert M. Silva, President, Middletown Town Council.

Read and passed in Council, May 2, 1973.

RESOLUTION OF THE JOINT COUNCILS OF NEWPORT, MIDDLETOWN, PORTSMOUTH, R.I.

Whereas, The Joint Councils of Aquidneck Island, meeting herewith in Grand Committee to consider and act upon the recent decision of the Department of Defense resulting in the order to transfer the Naval Fleet from the Newport area and to disestablish the Naval Shore facilities on Aquidneck Island, and

Whereas, the Joint Councils and the citizens of this Island vehemently protest this shocking decision which surely threatens our communities with economic disaster, and

Whereas, the logic and wisdom of this determination is hereby questioned and of particular concern to the Councils and citizen taxpayers, is the financial justification involved in this momentous decision, Now Therefore Be It

Resolved, the Joint Councils and the citizens of Aquidneck Island hereby request the Federal General Accounting Office furnish this Council with a comprehensive financial report dealing with the cost versus the savings, resulting from the Naval Shore Estab-

lishment Realignment Program in the Newport area, and that no action be taken to implement said Realignment Program until such time as the requested study and report is completed, and be it further

Resolved, that certified copies of this resolution, signed by the Honorable Humphrey J. Donnelly, III, Mayor of Newport, the Honorable Robert M. Silva, President, Middletown Town Council, the Honorable Laurent L. Rousseau, President, Portsmouth Town Council, be transmitted to the Honorable Richard M. Nixon, President of the United States, the Secretary of Defense, General Accounting Office and the Congressional delegation from the State of Rhode Island.

Sponsor: Laurent L. Rousseau, President, Portsmouth Council.

Read and passed in Council, May 2, 1973.

FRANK N. CAMPAGNA,
Town Clerk.

EXHIBIT C

STATEMENT BY COUNCIL OF PRESIDENTS

The Council of Presidents, representing all labor and management unions and organizations, strongly urge the closure of the Naval Air Complex, Quonset Point, Rhode Island be reversed, and that work be continued at its present capacity and capabilities and in consonance with the needs of the national security of the United States.

1. If retrenchment in operation is essential, it should be reasonable.

2. If closure cannot be reversed, and if reasonable curtailment of plant operation cannot in fact be justified, we recommend that the phase out of base operations be accomplished over a three to five year time frame. This will ensure not only orderly cessation of operation, but it also will permit employees to make obviously basic and crucial adjustments in their lives in a reasonable manner rather than in a state of panic and chaos.

3. In keeping with Secretary of Defense Elliot Richardson's request that we show proof of why these activities should remain open, we offer the following facts:

a. Narragansett Bay provides the most strategic location for a Naval complex in the Northeast section of the United States.

b. The Department of Defense's decision to close this complex will leave the most populated and industrialized portion of the Eastern seaboard unprotected.

c. We fail to see the rationale of removing these Naval activities to new locations that are already more than adequately protected.

4. We disagree with statements made by officials of the Department of Defense that the Narragansett Bay area cannot accommodate Deep-Draft Carriers.

a. Newport can.

b. Quonset Point piers can with minor dredging.

c. Barging can be accomplished.

5. We cannot understand this explanation in view of the fact that three of our sister activities on the East Coast cannot provide access for Deep-Draft Carriers under *any* circumstances.

a. Cherry Point—Land Locked.

b. Jacksonville—Dredging from the river mouth to Mayport costs $4.5 million per year to accommodate carriers. Then barging from carriers at Mayport to Jacksonville Naval Air Station is 20 miles.

c. Pensacola—Barging.

6. We also disagree with the statement made by officials of the Department of Defense that the Naval Air Station, Quonset Point, is in a state of deterioration.

a. In 1972 a total of 9.7 million dollars for renovation and expansion including three million dollars for rehabilitation of the Naval Air Station Bachelor Enlisted Quarters was accomplished.

b. Base modernization includes a newly renovated base exchange, a newly built commissary, a newly built CPO club, a new golf course club house, and a recently renovated enlisted men's club. Also included, 156 additional housing units at Kings Grant dedicated 6 December 1972, and 200 additional housing units at Hoskins Park dedicated June 1971.

c. The wooden living quarters built during World War II are outdated and scheduled for demolition. This process is going on at all government facilities.

d. This facility is no different in this regard than any of its sister facilities.

e. The industrial complex of the Naval Air Rework Facility is among the most modern in the Navy.

NARF, Building 879 special processing of aircraft parts, 95% complete as of this date, approximately one million dollars (only one of its kind in Navy).

NARF hangar extended in 1970, approximately 1½ million dollars.

NARF consolidated computer controlled machine shop, nearing completion is a model machine shop used for other sister activities to follow.

NARF test cells modernized to test TF-34/S3A engines.

f. As a direct result of a plea in 1971 by the then Secretary of the Navy, Mr. Chafee, private enterprise responded by investing large sums of money in the construction of permanent housing in the immediate area such as Heritage House apartments and Kings Grant apartments which relieved the Navy's urgent need for housing. A further complicating fact is that these structures are in fact tied into the Navy's sewage system.

7. Economic Impact—

a. Four thousand people unemployed. This situation is unique in that it is the only known case of a base closure resulting in nearly complete severance of its work force from the federal payroll.

b. Re-employment possibilities are further complicated by the fact that 66% of the severed employees are 45 years of age or older.

c. Unemployment rate in Rhode Island is already 6.4 percent, and will be raised as high as 15%.

d. Rhode Island offers few possibilities for this highly specialized work force.

e. Economic recovery will be greatly aggravated as we have not fully recovered from the loss of the textile industry.

f. Rhode Island is no more than a metropolitan area and the spin-off from these base closures will affect all of Rhode Island.

g. It appears inconceivable that the federal government would create by its free will an economic disaster in Rhode Island. The following are examples:

1. North Kingstown is to be faced with a surplus of 80 school teachers caused by the withdrawal of the military. Also, North Kingstown is currently faced with an $11.00/$1,000 property tax increase exclusive of the final withdrawal of the military.

2. Kent County communities will be faced with the same problem.

3. Newport is to be faced with a surplus of 130 school teachers. Afternoon sessions of kindergarten class; 24 of 25 are children of the military.

h. The federal payroll for fiscal year 1972 in the Narragansett Bay area was 344 million dollars. It is our opinion that the full impact of this loss is not fully understood by the business community and the general public. A reasonable estimate of the economic impact of this loss could reach a staggering two billion dollars.

i. Twenty-nine percent of the gross payroll or about $100 million was paid to Navy civilian employees at Newport and Quonset-Davisville.

j. This $100 million work force, which has donated nearly one-half million dollars to the United Fund and other charities, will be converted to a liability.

In conclusion we emphatically urge you as our Congressional delegates and State officials to use these facts and any additional information available to convince the Department of Defense that this Naval Complex is a viable part of the defense of the country and the economy of the State of Rhode Island.

NEWPORT COUNTY CHAMBER OF COMMERCE COUNTY,
Newport, R.I., May 11, 1973.

The PRESIDENT,
The White House,
Washington, D.C.

MR. PRESIDENT: In your capacity as Chief Executive of the United States and Commander in Chief of the Armed Forces, you alone are able to place in proper perspective the proper balance between national defense, the economy of the nation, and the economic condition of various geographical segments of the nation. We, therefore, invite your personal review to the plan of the Navy to suddenly abandon Rhode Island. The Navy plans to close Naval Air Station, Quonset Point, R.I., Naval Base, Newport, R.I., and most supporting activities. Virtually all Navy ships in Rhode Island waters will be transferred to southern ports (Norfolk, Va., Charleston, S.C., and Mayport, Fla.).

We believe such a move is—

(a) dangerous to the defense of the country
(b) economically unwise on a national scale
(c) locally a complete financial disaster
(d) damaging to the morale of many of our service personnel.

DEFENSE ASPECTS

By removing surface ships from the northeast, we reduce our quick response ASW capability. It is well known that Russian submarines—some nuclear warhead equipped—patrol our New England waters, soon to be virtually unchallenged. The Russian fishing fleet will in the near future have more ships off our coast than our own Navy.

By concentrating our surface fleet in a few southern ports we invite another Pearl Harbor. When one bomb can destroy an entire city, it would appear imprudent to concentrate our fleet in a few ports.

Of perhaps greatest concern, is the apparent desire of the Department of Defense to locate our Navy in warm climates where they can train in relative comfort. Are we to assume that a potential aggressor would be cooperative enough to meet us on our favorite battleground, or are we more apt to have to endure the rigors of North Atlantic or Arctic Oceans? Certainly both men and equipment of the U.S. Navy must be prepared to fight anywhere and under any conditions.

NATIONAL ECONOMIC ASPECTS

In order to accomplish its mission here in Rhode Island, the Navy has invested more than $561,000,000 in capital facilities. Building of new facilities has steadily improved the condition of the Naval Base and is still going on. Capital equipment expenditures for the last three years are summarized below:

1970

East Side Narragansett Bay:	
Destroyer School and Engineering Laboratory	$1,727,219
Naval Housing (300) Newport, R.I.	5,244,000
Bachelor Officers Quarters	1,105,030
Wave-Nurse Officers Quarters	1,105,030
Total	9,181,279
West Side Narragansett Bay:	
Housing Units (100) North Kingston, R.I.	1,875,000
Expansion Navy Exchange	340,000
Electrical Distribution System	730,560
Utilities	535,615

Helicopter Transmission Rework Facility	$458,679
Construction of Seabee Regimental Headquarters	601,861
Total	4,541,715

1971

East Side:	
Temporary Lodges, 125 units	1,335,000
Commissioned Officers Mess	681,000
MK 48 Weapons Center	678,000
Total	2,694,000
West Side:	
Family Housing (100 units)	1,925,950
Naval Aircraft Maintenance Training Facility	187,463
Renovation of Air Rework Facilities	3,383,497
Total	5,496,910

1972

East Side:	
Family Housing (60 units Fort Adams	1,680,000
Professional Education Center	2,885,000
Weapons Reliability Laboratory	487,000
Hospital Rehabilitation and Alterations	1,203,000
Total	6,255,000
West Side:	
Carrier Pier Repairs	693,407

1973

East Side:	
Enlisted Men's Service Club	1,296,000
Bachelor Enlisted Quarters	1,881,000
Sewer Improvements	1,165,000
Family Housing (200 units)	5,253,000
Academic Bldg. No. 1 War College	4,060,000
Family Housing (140 units)	2,508,000
Total	16,163,000
West Side:	
Renovation and Expansion Quonset Point	9,762,104

Certainly the continued expenditure of funds in Rhode Island has provided the Naval Base with modern facilities to service the fleet. It is readily evident that these facilities will have to be duplicated wherever the fleet relocates. At Mayport, Florida, for example, the nearest hospital is thirty (30) miles away. Navy housing at Norfolk, Charleston, and Mayport are already overcrowded.

EFFECT ON THE LOCAL ECONOMY

The federal government has a history of trying to help when natural disasters strike an area. Within the past month you personally surveyed the flood situation in the Mississippi Valley and pledged federal disaster aid. *Here in Rhode Island, however, we are facing a government-made disaster.*

The economy of our entire state is based upon the Navy. It is our largest employer. It owns the most choice waterfront locations of our state. Economists differ on the number of times a "Navy payroll dollar" gets spent—but it is somewhere between four and ten times. Thus, the reduction in payroll of $131,000,000 to the Newport area alone is a billion-dollar blow to a community of only 70,000 people. Clearly the small businessman, the apartment owner, and the labor force as a whole are being dealt a blow from which this island may never recover.

Twenty-five per cent of the Newport schools' enrollment are sons and daughters of uniformed Navy personnel, 50 per cent of Middletown's and 33 per cent of Portsmouth's. Not only will reduction in teacher staffs be required, but many schools, built at great expense will have to be closed.

For years, the Navy has urged local investors to build low-cost housing for sale or renting to Navy families. Response, while slow at first, has accelerated with private apartment complexes totaling more than 1,500 units opened within the past year. About fifty per cent of these are occupied by military families—all of whom will either transferred or forced to move into the greatly expanded number of Naval Housing units that will now be available.

More than $27,000,000 of direct purchases were made last year from Rhode Island businessmen. This also was spent several times over in the State for goods and services.

It hardly seems reasonable that a government that historically has helped overcome national disasters, would inflict a disaster on its smallest state.

EFFECT ON NAVY MORALE

There are no statistics on Navy morale. Navy policy is to follow orders and disciplinary action is threatened against those who complain. In our discussion with hundreds of Navy men and women, we have yet to find one enthusiastic about leaving. Many are being advised to leave their families behind as there is no housing—either government or urban, where being assigned. Schools in all of the areas where they are being assigned are overcrowded, some on double sessions. Quality of education is not thought to be equal to that in the Newport area. Medical facilities are also unequal to those of Rhode Island.

In summary, Mr. President, we do not believe a comprehensive look at the effect on the nation as a whole has been taken by the Navy in planning this move. We would be happy if you would review this potential government-caused disaster with the same compassion you have shown before in natural disasters.

Respectfully yours,

DAVID P. LEYS,
President, Newport County Chamber of Commerce.

STATEMENT OF THE NEWPORT COUNTY CHAMBER OF COMMERCE IN SUPPORT OF RETAINING THE FLEET IN NARRAGANSETT BAY

1. The Chamber of Commerce of Newport County, representing the business community of the city of Newport and the towns of Middletown and Portsmouth, Rhode Island, strongly urges that the drastic reduction of activities at U.S. Naval Base, Newport, R.I., be reversed for the reasons set forth herein.

2. We strongly endorse the statement of the Council of Presidents in objection to the closure of the naval air complex at Quonset Point, R.I., and concur with the statements made therein.

3. In further response to Secretary of Defense Richardson's request for proof that these activities should remain in Rhode Island, and with particular reference to the Newport situation, we offer the following facts:

A. Concerning national defense and the effectiveness of naval operations:

1. A primary mission of the Navy is the defense of our maritime trade. A major portion of the maritime trade route is found in the North Atlantic regions. The fulfillment of this mission requires the U.S. to maintain a portion of the Atlantic Fleet at an operating base in the Northeast. The naval base at Newport, with its facilities designed to support such forces, logicaly fills these requirements.

2. An important consideration of our national defense is the premise that the disbursal of our fleet is worth the additional expense to minimize the effect of a sudden attack in the event of total war—remember Pearl Harbor.

3. The Navy's future plans are to minimize its dependency on the larger carrier force, and place its reliance on smaller air-craft carriers, such as the sea control ships and a highly mobile destroyer escort force. The present Narragansett Bay facilities of the Navy are the best the Navy has on the East Coast for this type of force. Our government should not indulge in the false economy of closing down these bases today, when our best information tells us these bases will be needed for the ships of tomorrow.

4. One of the primary missions of a destroyer fleet is A.S.W. and destroyers should be kept at Newport to train and operate with submarines at New London. We disagree with the logic of the argument that Narragansett Bay's naval operating areas suffer from more bad weather than the southern ports. The Navy will not be able to choose its next battle ground. It should be trained to fight under the worst conditions. The Japanese in World War II took advantage of our "fair weather Navy," and chose to do battle with us in stormy weather.

5. Narragansett Bay is adjacent to deep water operating areas and a shorter distance to water outside of thousand fathom curve than Charleston or Mayport. The waters off the coast of Rhode Island more closely simulate those of the Mediterranean and Norwegian Sea than do the waters of Virginia, South Carolina, and Florida. It is only logical that ships and aircraft, working in concert, should train in an environment as similar to that in which they would have to operate in a national emergency.

6. Newport is better situated than the southern ports because it is closer to the Navy's two principal mission areas—Gibraltar and the Norwegian Sea.

B. Newport is not an old base. This base has been completely modernized since 1955 by the following major projects:

Destroyer piers and breakwater	$19,636,251.00
Dormitories, barracks, etc	19,390,000.00
Utilities	13,423,000.00
Training buildings and facilities	23,640,000.00
Hospital additions and repairs	5,487,000.00
Housing	20,203,000.00
Miscellaneous facilities	3,790,000.00
Total	105,569,251.00

The Newport base has modern, well-maintained facilities with better than normal military housing, all of which is within a ten minute drive from the destroyer piers—an essential element to speedy mobilization in the day of surprise attack.

C. Shipyard facilities.

1. The closing of Boston naval shipyard will have no appreciable effect on New England's ability to service the fleet. The independent New England shipyards represent many of the Nation's finest modern ship repair and construction facilities, with the craftsmanship and technical know-how to perform all services needed to keep the fleet in a state of readiness at reasonable cost.

2. Two of the southern ports are each served by a shipyard which has a monopoly in the area, resulting in negotiated contracts thirty per cent higher than the competitive bidding in New England.

3. The addition of a floating drydock at Newport in 1972 now means that almost all Newport based ships can receive their shipyard services at the Newport base, close to the training activities there and to the homes of the crew.

D. Naval facilities.

1. Newport contains the fleet training center and the destroyer school (which is scheduled to remain), and the presence of ships at Newport is important to both.

2. Newport naval hospital is well equipped to meet the needs of the fleet stationed at Newport and Quonset.

3. There are 2,310 units of naval housing in Newport, 962 of which have been built

within the last five years, at a total cost in excess of $21,526,000.00.

4. The supply depot at Newport is modern, efficiently managed and very adequate to meet the needs of the fleet.

5. Newport's fleet fueling facility is the third largest and one of the best the Navy has, and its supply center has one of the largest cold storage operations on the east coast.

6. The Newport base has recently modernized the following facilities:

Base exchange.

C.P.O. club, which will become the enlisted mens' club when a new C.P.O. club (construction of which has started) is completed.

A new recreation center.

Millions of dollars have been spent recently on enlisted mens' quarters and bachelor officers' quarters.

E. Civilian shore facilities:

1. As a result of constant urging by the base commander and by the Secretary of the Navy to construct modern housing, private enterprise in the three communities, Newport, Middletown and Portsmouth, have responded by constructing since 1965 approximately 1500 apartment units at a cost exceeding twenty-two and a half million dollars. During this period, at least an equal number of new single family houses have been constructed.

2. Newport has an active, well supported Navy YMCA. (We understand that the Charlestown, South Carolina, Navy will soon close because of bad relations with the civilian government).

3. The immediate Newport area contains five golf courses, good beaches, indoor and outdoor tennis courts, marinas, and an excellent recreation program which welcomes naval personnel.

4. The three Aquidneck Island communities have excellent school systems, personnel and facilities, which were created in the main to accommodate the children of Navy families. This includes special training facilities which are not available in other naval areas.

5. Morale of the officers and enlisted men stationed in Newport has always been a concern of the community. The chamber of commerce has conducted an active program that has become a model for community-military relations.

F. The Nation's hopes for a total volunteer fleet make it particularly important that they have representation in all major areas of the country, if interest and understanding of the populace are to lead to successful recruitment.

G. Environmental impact:

1. Has an environmental impact study been performed to justify the ecology considerations of the consolidation of the fleet in the muddy river-type ports of Charlestown and Mayport?

2. Can Norfolk's and Chesapeake Bay's ecological limits support the addition of more ships, more housing and more solid waste?

3. Narragansett Bay is deep and subject to constant tidal change, making it ecologically suited for the fleet.

H. Concerning the economy of Newport county:

1. Newport County presently has an unemployment rate of 10 per cent, the highest unemployment rate in the State of Rhode Island, which has one of the highest unemployment rates in the Nation. It is projected that if the Department of Defense persists in its plans to withdraw the fleet from Newport and close Quonset Point, Newport County's unemployment rate will rise to 22 per cent.

2. The loss of the Navy payroll will mean a 9 per cent reduction in the payroll of the State of Rhode Island.

3. The direct reduction of 13,887 military and civilian jobs results in a loss of 41 per cent of the total jobs for the three Aquidneck Island communities of Newport, Middletown and Portsmouth.

4. A quick sampling through a survey of the businesses of these three communities has been conducted by our chamber of commerce since the announced base closings, with the following results:

a. 20 per cent of the businesses on Aquidneck Island responded. These businesses had gross receipts of $61,828,669.00 in 1972, and an average of 43 per cent of these receipts were directly attributed to naval purchasers. The businesses sampled had 1,576 full and part-time employees, and indicated a reduction of this work force, because of the Navy pull-out, of 1,007 employees. Of the 121 businesses replying to the survey, 74 indicated they would go out of business if the Navy reduction went through as contemplated.

5. Newport is unique when compared to the other announced base closings, as Newport is not a base that was originated and developed in World War II. The Navy has been in Newport for 200 years, and the social and economic environment of this community is almost totally dependent upon this relationship.

CONCLUSION

We cannot argue with the decision to close some military bases for economic reasons, if the economies effected are national ones. But is this the case? Will not the savings to the defense budget be a loss to our domestic program if an area is financially devastated in the process?

Should we be required to accept the supercarrier theory when the Navy's future calls for their reduction and construction of small carriers and the smaller types of ships?

Can we help but conclude that the determination of which bases would close and which would not was made with more consideration for the geographical membership of the Armed Forces committees than for the geographical considerations of national defense?

Are we not justified to question fair play of our Federal Government—whose naval representatives a few years ago required that the Newport Bridge be built to accommodate supercarriers and be located so as not to interfere with the fleet at Newport and the aircraft at Quonset?

We join with all Rhode Islanders to urge the President and Congress to keep the fleet in Narragansett Bay where it belongs for the defense of the Nation.

DAVID P. LEYS,
President.

EXHIBIT E

THE NAVY IS OUR ECONOMY

(A report to Save Aquidneck Island Fund, Inc.)

ECONOMY OR WASTE?

The transfer of the fleet from Newport, Rhode Island, with the attendant movement of other facilities, will cost the taxpayers of the United States of America hundreds of millions of dollars.

Following are some of the costs.

Cost to Government

1. Aid to homeowners under Government Homeowners Assistance Act:	
a. 2,772 homes affected [1 2]	$14,553,000
2. Families Relocated:	
a. 6,105 Families [3 6]	8,186,805
3. Mileage Allowances:	
a. 6,105 Families [3 4]	1,253,102
4. Vacated housing units to be duplicated at new locations:	
a. 1,460 Units [3]	29,220,000
5. Federal dollars spent in 1972 on new construction for disestablished or relocated facilities [5]	$31,707,041
6. Total replacement value of plant and equipment not including ships and land [5]	392,700,000
7. Annual Navy payroll in Newport is [5 7] (This is 77% of Aquidneck Island's payroll.)	216,186,416
8. Navy employment constitutes 63% of the total employment on Aquidneck Island. [5 7]	
9. Navy Supply Center is the third largest Navy bulk fuel storage facility in the world. [6]	
10. Naval Supply Center has one of the largest cold storage operations on the East Coast. [5]	
11. The Supply Center alone has a value in excess of [5]	29,000,000

Economic impact on Aquidneck Island (Newport, Middletown, and Portsmouth)

1. A 22% rate of unemployment is anticipated on this island (presently 10%) [8]	
2. Loss of 51% of the total island payroll of these communities is [5 6 7]	$144,768,213
3. Purchases by the Navy from local suppliers are in excess of [5]	10,000,000
4. A loss of 13,887 Government jobs is equal to 41% of the total jobs on Aquidneck Island. [6 7]	
5. An additional loss of 1800 jobs EXCLUSIVE of military base employment is anticipated. [7 8 9]	
6. An additional annual loss to the business community includes payroll, maintenance, procurements, and construction [5 9]	175,000,000
7. A loss of more than 50% (600+) of all the business on Aquidneck Island is anticipated. [9]	

SOCIAL IMPACT

1. The Navy has been an integral part of our lives for over 200 years, consequently, we do not just service the Navy—WE ARE a part of THE NAVY.

2. Adequate housing, recreational, and medical facilities are located within a 10 MINUTE access of the Naval Base.

3. Children attend their NEIGHBORHOOD SCHOOLS which are known for excellent education. Special training facilities located here, which are not available in other areas, exist within a 10 minute drive.

4. A loss of $172,000 to the United Fund and other Charities. [5]

5. Naval facilities have been and are shared by Boy Scouts, Girl Scouts, the Red Cross, and church groups, etc. [5]

6. Disadvantaged children by the THOUSANDS have shared the recreational and cultural facilities of the Naval Base. [5]

7. Hundreds of fire fighters from NEW ENGLAND, participate in training at the Fire Fighters School. [5]

8. Navy personnel and dependents are the back-bone of the Island's organizations; Little League, Boy Scouts, etc.

The Government has always been concerned with natural disasters. Should the Government be any less concerned with a MAN-MADE disaster?

Newport, R.I. is on an island with relatively no industry. We cannot be absorbed into the surrounding regions which ALREADY have the HIGHEST unemployment rate in the Nation.

The Navy is creating housing crises in other locations by transferring the Fleet out of Newport; an area where there ALREADY exists ample housing for Military purposes.

Can we afford NOT to utilize these modern Military facilities and one of the finest natural deep water harbors in the world?

FOOTNOTES

[1] Homeowners Assistance Act.
[2] Newport County Board of Realtors.
[3] Bowler Van & Storage Safeway Systems, Inc.
[4] Naval Finance Office.
[5] Annual Report by the Navy in the Rhode Island Area 1972.
[6] Department of Navy—Office of Legislative Affairs (Fact Sheet April 16, 1973).
[7] Rhode Island Development Council.
[8] State Department of Employment Securities.
[9] Survey of Aquidneck Island Businesses.

EXCERPTS FROM ANNUAL REPORT BY THE NAVY IN THE RHODE ISLAND AREA—1972

FEBRUARY 1973.

An annual report by the Navy in the Rhode Island area has been published since 1956, and we are pleased to send you a copy of our new report.

The report deals in terms of dollars and missions, and this year shows continued growth of support of the area's economy, with a total payroll slightly in excess of $344 million. But the report does not portray the most important part of the story—the warm welcome our men and women in uniform receive in the communities, and the close cooperation extended by officials on both the state and local level.

We hope you will enjoy reading the details of our operations.

G. L. CASSELL,
Rear Admiral, U.S. Navy, Commander, Fleet Air Quonset, Naval Air Station, Quonset Point, R.I.

R. E. RUMBLE,
Rear Admiral, U.S. Navy, Commander, Naval Base, Newport, R.I.

REPORT HIGHLIGHTS

The 1972 gross payroll for Navy civilian employees and military personnel in the Rhode Island-Southeastern Massachusetts area totaled slightly more than $344 million—an increase of about $25 million over the previous year.

Two new ships joined the Cruiser-Destroyer Force, U.S. Atlantic Fleet, at Newport in 1972—the guided missile frigates Coontz and R. K. Turner. Another new arrival was the AFDM-7, a 622 foot-long floating drydock berthed at Melville, which is capable of serving all destroyer-type ships. It is manned by 95 officers and 150 enlisted men.

Major construction projects completed at Naval installations on both sides of Narragansett Bay totaled $6,948,407 in 1972. Projects still under construction at year's end amounted to $26,725,863.

All told, 9,915 civilian employees and 27,402 military personnel, including the Naval Facility at Nantucket and reservists at three locations, were assigned to activities and ships in the area. The totals include 4,654 civilians and 16,246 military personnel at Newport, and 5,259 civilians and 9,635 military personnel at Quonset-Davisville.

A total of 40,690 students attended long and short-term schools on both sides of the Bay during 1972.

Twenty-nine per cent of the gross payroll—or about $100 million—was paid to Navy civilian employees at Newport and Quonset-Davisville.

On the east side of Narragansett Bay, (including Nantucket and reservists), salaries for civilian personnel totaled $48,519,463, while those for military personnel amounted to $167,493,405, for a grand total of $216,012,868.

On the west side of the Bay, (including reservists), salaries for civilian personnel amounted to $51,318,870, while those for military personnel totaled $76,727,714, for a grand total of $128,046,584.

Navy civilian and military personnel contributed $451,967 to charitable causes, including the United Fund, National Health Agencies, International Service Agencies, Navy Relief, and other appeals.

During 1972, purchases of resale items by the Quonset Point and Newport Commissaries totaled $27,400,000, with about $6,500,000 worth of the items purchased from Rhode Island-based concerns.

The Naval Supply Center and the Naval Regional Procurement Office, both of Newport, handled purchases totaling $23.8 million, of which more than $8.4 million was awarded to businesses in the Rhode Island area.

The value of local expenditures by the Naval Air Station, Quonset Point, for items bought from Rhode Island firms was almost $12 million.

Spruance Hall, a $2.5 million professional education center, the first building to be constructed for the Naval War College since Pringle Hall back in 1934, was officially opened in ceremonies December 6–7, 1972. The building, named for the late Admiral Raymond A. Spruance, the 25th President of the College, is the first structure to be completed in the College's current $23 million expansion program.

Also at Newport, ground was broken for another 200 family housing units costing $5.2 million (150 off Greene Lane, Middletown, and 50 at Fort Adams).

A total of $9.7 million in contracts for renovation and expansion, including $3 million for rehabilitation of the Naval Air Station's Bachelor Enlisted Quarters, was awarded at Quonset in 1972.

Medical facilities in the Narragansett Bay area (Naval Hospitals at Newport and Quonset, plus dispensaries at the Newport Naval Station and CBC, Davisville), were consolidated into the Naval Regional Medical Center, Newport, last July 1.

A new shore activity, the Human Resource Development Center, was established on April 1 at the Newport Naval Base.

The 14th annual Quonset-Davisville Navy Relief Carnival drew more than 250,000 persons and raised almost $73,500 for the Navy Relief Society.

Naval Mobile Construction Battalion 1 of Davisville won the coveted Peltier award for fiscal year 1971–72. MCB–1 was selected as "most outstanding" of 10 Navy-wide Seabee battalions by the National Society of American Military Engineers.

Thirteen Seabees from Naval Mobile Construction Battalions 1 and 71 at Davisville restored electrical service to more than 3,000 homes in the flood-damaged Wilkes-Barre/Scranton, Pa. area last July.

The 12 ships of Service Squadron Two, U.S. Atlantic Fleet, homeported at Newport and Davisville, are manned by nearly 3,600 officers and men.

The total replacement value of Naval plant and equipment in the Narragansett Bay area, not including ships or land, is $561,176,000.

The 1,733 civilian employees at the Naval Underwater Systems Center, Newport, which includes about 700 scientists and engineers, were paid a total of almost $24.3 million.

[From the Virginian-Pilot, May 4, 1973]

CONGRESS WANTS $55.3 MILLION CONSTRUCTION IN AREA

(By John Stevenson)

NORFOLK.—Congress has recommended $55.3 million for military construction in Tidewater during fiscal 1974, of which the largest single portion is $9.6 million for a new berthing pier at Norfolk Naval Station.

The construction would help Tidewater prepare for 9,000 Navy people who will move to the area as the result of base closings and realignments elsewhere. The realignments were announced last week.

Besides the new pier, large fiscal recommendations for Tidewater include $3.2 million for a dispensary and dental clinic at Little Creek, $2.5 million for a helicopter maintenance hangar at Norfolk Naval Air Station, $3.9 million for an applied instruction building at Norfolk Naval Station, and $3.3 million for an aircraft systems training building at Oceana.

On the Peninsula, $4.7 million has been recommended for construction at Ft. Eustis. Of this figure, $680,000 would go for a supply and administration facility, $2.5 million would be pumped into barracks modernization, $533,000 would be used for a Post Office, and $992,000 would be earmarked for an electrical distribution system.

In addition, $867,000 has been recommended for barracks modernization at Ft. Monroe and .3 million is being urged for a torpedo overhaul shop at the Naval Weapons Center in Yorktown.

The recommendations for Langley Air Force Base include $403,000 for a radar flight control center and 100,000 for alteration of command administration facilities.

The total for pollution abatement in the 2nd Congressional District, which includes much of Tidewater, is $37.4 million.

The monetary breakdown for Norfolk, Portsmouth, and Virginia Beach goes like this:

Little Creek—$3,211,000 for the dispensary and dental clinic; $139,000 for an electronics building.

Norfolk Naval Air Station—$2,525,000 for the helicopter maintenance hangar.

Norfolk Naval Station—$9,624,000 for the new berthing pier; $803,000 to relocate the fleet landing; $314,000 to dredge beneath Pier 2; $3,950,000 for the applied instruction building; $1,435,000 for enlisting dining facilities modernization; $2,057,000 for pier utilities; and $310,000 for a new vehicle parking area.

Naval Public Works Center—$567,000 for an electrical distribution system, $2,470,000 for a new Nuclear Weapons Training Group building, and $325,000 for a refueling vehicle maintenance facility.

Fleet Marine Force in Norfolk—$374,000 for an enlisted men's dining facility and $312,000 for road improvements.

Fleet Combat Directions Systems Training Center at Dam Neck—$5,959,000 for an applied instruction building, $572,000 for another training building, and $600,000 for a municipal sewer connection.

Norfolk Naval Shipyard in Portsmouth—$4,066,000 for a machine shop, $3,332,000 for utilities improvements, $2,624,000 for bachelor enlisted quarters, and $1,111,000 for enlisted dining facilities.

Also at the shipyard, a sandblast and painting facility at $3,621,000, an industrial waste collection system at $1 million, and a ship waste water collection system at $2,114,000.

Pollution-control projects not mentioned elsewhere include an ashore ship waste-water collection system at Little Creek for $433,000, industrial waste collection system improvements at Norfolk's Naval Air Rework Facility for $268,000, and sewer treatment facilities at Norfolk Naval Station for $620,000.

EXHIBIT F

MR. PRESIDENT

We the people of Rhode Island cannot accept the abrupt closure of our naval facilities. The following reasons are presented for your consideration:

We trust that you will honor your campaign promise.

Last fall the following ad was published in

Rhode Island newspapers by the committee to re-elect the President:

"What George McGovern's defense cut could mean to Rhode Island.

If Senator McGovern is elected President and he fulfills his pledge to cut America's defense budget by 40%, here's what's likely to happen in Rhode Island.

Quonset Point, Davisville, and Newport naval base would be severely affected by the McGovern plan. *Thousands of civilian jobs at the bases would be lost and thousands of Navy men and their dependents would have to leave the state. The blow to Rhode Island's economy would be staggering.*

Several thousand Rhode Islanders work at the Electric Boat Division at Groton. Many of these jobs would also be on the line since Senator McGovern would cut the Navy's submarine program.

Nor does the matter end there. For also of concern to Rhode Islanders is the security of their country. They know that the best hope for future agreements on arms limitations and peace itself rests on America's ability to negotiate from a position of strength, and that position would be endangered by so huge a defense cut as the one proposed by Senator McGovern.

Fortunately, none of this will come to be if the man who's president right now remains president. It's one of the reasons why more and more people are saying that America needs President Nixon now more ever.

President Nixon. Now more than ever."

Mr. President—Can we depend on you to keep your word?

The abrupt closure and transfer of functions of the naval air rework facility, the Naval Air Station, Quonset Point, and the Newport Naval Base will result in an economic disaster in our state.

Our state has less than one million people, which represents only one half of one percent of the nation's population, yet we are being asked to take 50% of the DOD civilian and military manpower reduction of 42,800 jobs.

The federal payroll in Rhode Island for fiscal year 1972 was 344 million dollars. This is approximately 10 percent of the personal income of the entire state, It is also approximately equal to our annual state budget. How can we recover from such a devastating blow?

As a direct result of a plea made by the Navy in 1971, private businessmen responded by investing many millions of dollars in constructing hundreds of permanent housing units. This relieved the Navy's need for housing. These huge investments will be lost. The business community feels as though it has been "misled."

Traditionally, communities which have been affected by major base closure actions have been given at least three to five years to adjust economically by means of the gradual phase out of operations.

Rhode Island has an unemployment rate of 6.4%, yet those states to which our Navy functions are being transferred have virtually no unemployment. For example, Florida, North Carolina, and Virginia have unemployment rates of 3.1%, 2.6%, and 2.5% respectively. Civil service layoffs alone will increase the Rhode Island unemployment rate by 20 to 30 percent.

The Naval Air Rework Facility at Quonset Point with its nearly 3,000 federal employees is our state's largest single industrial employer. It is one of the few major industrial facilities in Rhode Island.

More than five thousand federal and noncivil service employees of the Navy will be jobless in our state. Except for a very few isolated instances, these employees will not be offered employment elsewhere in federal service. Rhode Island offers few possibilities for this highly specialized work force. Reemployment possibilities are further complicated by the fact that 66% of the employees are 45 years of age or older.

Many additional layoffs and business closures will occur in the private sector which depends heavily upon the presence of the Rhode Island military bases.

The abrupt closure of our modern bases is not in the best interest of either national security, naval operations, or economy.

Quonset Point is the cornerstone of the nation's antisubmarine warfare protection for the entire eastern seaboard. The closure of this facility will leave the entire northeastern sector without adequate protection in the face of the greatly increased menace of soviet submarines which threaten New England with missiles that are equipped with nuclear warheads. It is not logical to remove these naval facilities to new locations that are already adequately protected.

The DOD has stated that the Rhode Island bases have been closed because of their inability to accommodate deep-draft-carriers. Here are some facts:

The Navy retained the Naval Air Rework Facility at Cherry Point, North Carolina. They cannot accommodate carriers. They do not even have a port!

The Navy retained the Naval Air Rework Facility at the Naval Air Station complex in Alameda, California, closed the Air Station, transferred the squadrons, and closed its port to aircraft carriers.

The Naval Air Rework Facility at NAS Jacksonville, Florida cannot handle carriers either. Aircraft workload must be barged from USNS Mayport, Florida—33 miles away. Why couldn't nearby Newport—5 miles away—have served Quonset Point in the same way?

The Port at the Pensacola Naval Air Rework Facility can handle only the smaller carriers of the Essex class—and so can Quonset!

The DOD stated that the Quonset Point runway cannot handle high performance aircraft. Here are the facts:

The largest military aircraft, the C5A, has landed on our runways a number of times.

Why do we need runway longer than 10,000 feet? The aircraft we overhaul do not require longer runways—we have the capability to handle supersonic aircraft. Reliable engineering sources in Washington are not aware of any Navy aircraft (in service or being manufactured) that requires a runway longer than 10,000 feet.

The DOD stated that Quonset Point is becoming obsolete. The fact is that Quonset Point is one of the newest, most modern and progressive industrial complexes in the Navy. In 1972 alone, approximately 10 million dollars were expended for renovations and expansion.

The DOD stated that the Quonset Point base closure would result in a cost savings. However, the projected 23 million dollars savings will not be realized because the base functions are being transferred and not discontinued. The cost of transferring this workload and the increaased direct labor costs at most other areas will result in a much higher cost to the taxpayer.

In a recent news statement, Senator Carl Curtis of Nebraska denounced these closures as "highly political" and estimated that the moves will cost the taxpayers an extra 41.5 million dollars or more. His estimate does not include the additional 60 million dollars which will be spent for severance pay, accrued leave, early retirement, employee relocation, housing reimbursement, travel allowances, new military construction not previously identified, equipment acquisition and modification, etc. Our preliminary estimates show that the total increased cost will exceed 100 million dollars, and we haven't "scratched the surface" yet.

Senator Curtis articulated our position precisely when he said, "I not only personally resent but publicly object to vast amounts of federal tax dollars being spent to enrich the economy of one city or area of the country at the expense of others."

Mr. President—All we ask is that all actions now being taken to close the Quonset Point Naval Air Station and Naval Air Rework Facility be halted pending a complete investigation of the facts. If after a fair investigation of the facts it is determined that it is not in the best interest of the nation to keep all the Rhode Island facilities in operation, then at the very least, accomplish the base closures gradually over a three to five year period to avert chaos, panic, and economic collapse in our state. Is this too much to ask?

CHARLES GOYETTE,
Council of Presidents, Chairman.
PAUL F. LISCHIO,
Save our State, Cochairman.
JOHN ST. GERMAIN,
Save our State, Cochairman.

(Representing the business, civic, labor, and management organizations throughout Rhode Island.)

Mr. PELL. Mr. President, the demonstration that was held here Saturday should bring home to every Member of this body that there are thousands of Rhode Islanders who have been treated unjustly and without compassion by this administration. The leaders who organized the rally in Washington, men such as Francis J. P. Sullivan, Jack Replogle, John McGann, and Joseph Dunn, are decent men—men who are concerned with the very survival of their community. Their leadership in this fight against personal and community economic disaster has given us heart and strength so that we can continue our fight for justice and decency for our Rhode Island citizens. Francis J. P. Sullivan deserves particular credit for having thought of, inspired, and led the rally.

No more moving a statement can be made than that delivered at the rally by a blinded veteran, Thomas Garrick, who has worked 18 years at the Naval Air Rework Facility at Quonset Point, who said:

Though I can't see you, I know I am looking out on a tremendous crowd and that we are here today to tell the President of the United States that he let us down.

As Edmund Burke once said:

An event has happened, upon which it is difficult to speak, and impossible to be silent.

I have tried to be objective. I was prepared to accept a proportional cutback, but I was not prepared for the total decimation of the work force of Rhode Island and our economy. I just do not accept a determination which is wrong from every possible aspect—strategic, economic, and efficient operation—and which I honestly believe to be based on prejudice against my area of the country by the administration.

QUORUM CALL

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

The PRESIDING OFFICER (Mr. JOHNSTON). Without objection, it is so ordered.

CONCLUSION OF MORNING BUSINESS

Mr. ROBERT C. BYRD. Mr. President, is there further morning business?

The PRESIDING OFFICER. Is there further morning business? If not, morning business is concluded.

HEALTH MAINTENANCE ORGANIZATION AND RESOURCES DEVELOPMENT ACT OF 1973

The PRESIDING OFFICER. Under the previous order, the Senate will now resume the consideration of the unfinished business, S. 14, which the clerk will report.

The legislative clerk read as follows:

Calendar No. 120 (S. 14) a bill 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. The pending question is on agreeing to amendment No. 131 of the Senator from Massachusetts (Mr. KENNEDY).

QUORUM CALL

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. 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.

AMENDMENT 131 WITHDRAWN

Mr. KENNEDY. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Mr. President, what is the matter pending before the Senate at the present time?

The PRESIDING OFFICER. S. 14 is pending before the Senate, and the pending question is on agreeing to amendment No. 131 of the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, a further parliamentary inquiry.

The PRESIDING OFFICER. The Senator will state it.

Mr. KENNEDY. Mr. President, would it be appropriate for me to withdraw the amendment?

The PRESIDING OFFICER. The amendment may be withdrawn.

Mr. KENNEDY. Mr. President, I withdraw that amendment.

The PRESIDING OFFICER. The amendment is withdrawn.

Mr. KENNEDY. Mr. President, I send an amendment to the desk on behalf of myself, the distinguished Senator from New York (Mr. JAVITS), and the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk proceeded to state the amendment.

Mr. KENNEDY. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment in the nature of a substitute for the committee amendment is as follows:

Beginning on page 107, line 18, insert the following:

That this Act may be cited as the "Health Maintenance Organization and Resources Development Act of 1973".

SEC. 2. (a) The Congress finds that—

(1) the medical care system is not organized in a manner which encourages the provision of medical care at reasonable costs;

(2) the medical care system is oriented toward providing care once a health need has occurred rather than toward providing health maintenance and preventive health services;

(3) there is a serious maldistribution of medical care resources which has resulted in inadequate access to medical care in both inner city and rural areas.

(4) the establishment of health maintenance organizations, 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;

(6) there exists an excessive variance in the quality of health care and health services.

(b) The purpose of this Act is to assist in remedying these deficiencies through encouraging the establishment and utilization of health maintenance organizations, particularly in medically underserved areas by improving the system for the delivery of health care through encouragement of any support for the planning, development, and initial operation of health maintenance organizations, 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 under (including review and assessment of quality or quantity of such services or determination or 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 XI the following new title:

"TITLE XII—HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH SERVICE ORGANIZATIONS

"PART A—SUPPORT OF HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"SEC. 1201. 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 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; (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 Assistance (established under title XIII 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), and 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 1249, 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, who are temporarily outside the service area of the health maintenance, 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, physician's 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 any person 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 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 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 1302, in a State and who (A) engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance enrollees; (B) if not employees or retainees of a health maintenance organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary, or a drawing account or other plan; (C) jointly use or share substantial portions of medical and other records and 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, physician's 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. 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 on the basis of an aggregate fixed sum or on a per capita basis.

"(4) The term 'enrollee' when used in connection with a health maintenance organization, 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, 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 area-wide 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 (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"(7) 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.

"(8) 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 actuarially determined average.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1202. (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 $10,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1203. (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 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) 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 $15,000,000 for the fiscal year ending June 30, 1974, $25,0000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976.

"CONSTRUCTION GRANTS

"SEC. 1204. (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 sec-

tion $15,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $40,000,000 for the fiscal year ending June 30, 1976.

"GRANTS FOR INITIAL COSTS OF OPERATION

"SEC. 1205. (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 $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976.

"CONSTRUCTION LOANS

"SEC. 1206. (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 $10,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976. 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. 1207. (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 $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976. 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—GENERAL PROVISIONS

"GRANTS AND LOANS

"SEC. 1240. (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 1241. 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 INTEREST SUBSIDIES

"SEC. 1241. (a) In order to assist private health maintenance organizations to carry out construction projects for ambulatory care facilities and transportation services and communication services to be used by it for the provision of health services to its enrollees, to meet their initial development costs (for not more than three years) or to meet their cost of operation (for not more than three years), as well as to subsidize the difference between income and operating expenditures, the Secretary during the period beginning January 1, 1974, and ending with the close of June 30, 1976, 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 organization, 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, 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 interest 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, 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 argument 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. 1242. (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, 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 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 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. As used in this subsection the term 'financial responsibility' means the demonstrated capability to adequately carry out the purposes of the project for which the original assistance was made.

"(d)(1) An application for a grant, 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 he 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 1302.

"(g)(1) The Secretary may not approve an application submitted under section 1203, 1204, 1205, 1206, or 1207, unless the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization, for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314(a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application. If under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the Secretary may not approve such an application unless the required approval has been obtained.

"(2) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for assistance for health maintenance organizations, and other applicants for assistance under this Act.

"(h) If in any fiscal year there are insufficient funds available for funding of all approved applications for assistance under section 1202, 1203, 1204, or 1224, of this title the Secretary shall, subject to the priorities in sections 1202(b), 1203(c), and 1204(c), give priority to those applicants which he determines are the most likely to be economically viable.

"EFFECT ON STATE LAW

"SEC. 1243. (a) Notwithstanding any provisions of State law which—

"(1) require approval of a health maintenance organization, by a medical society;

"(2) require that physicians constitute all or a majority of the governing body of a health maintenance 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 determined by the Secretary, to be incompatible with this title,

a health maintenance organization 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. 1244. (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 the administrative costs allowed by the Commission, incurred in complying with the requirements of the Commission. 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 1302.

"(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, 1974; $50,000,000 for the fiscal year ending June 30, 1975; and $75,000,000 for the fiscal year ending June 30, 1976.

"CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS, SUPPLEMENTAL HEALTH MAINTENANCE ORGANIZATIONS, AND HEALTH SERVICE ORGANIZATIONS TO SERVE ALL PERSONS

"SEC. 1245. (a) (1) The Secretary shall make annual grants to health maintenance 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 premium and the premium for membership enrollment in such health maintenance, for each such person enrolled. A health maintenance shall be eligible for grants under this subsection only during the first three years of its operation.

"(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, for the next preceding year.

"(4) Notwithstanding any other provisions of this Act the Secretary shall allocate on a pro rata basis not less than 7.5 per centum of the sum of the funds appropriated for each fiscal year pursuant to Part A of title XII of this Act to carry out the purposes of this subsection.

"(b) (1) Where a health maintenance, 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. A health maintenance organization shall be eligible for grants under this subsection only during the first three years of its operation.

"(2) Notwithstanding any other provisions of this Act the Secretary shall allocate on a pro rata basis not less than 7.5 per centum of the sum of the funds appropriated for each fiscal year pursuant to part A of title XII of this Act to carry out the purposes of this subsection.

"PAYMENT OF GRANTS

"SEC. 1246. 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. 1247. (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 XII of this Act shall be used to initially develop, construct, and initially operate a health maintenance organization, directly or indirectly through arrangements with others, health care to a defined population on a prepaid basis.

"LABOR STANDARDS

"SEC. 1248. 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. 1249. In a case where all appropriated funds are expended under section 1245(b) (2) and where a health maintenance organizations, 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 organization may receive more than one such waiver.

"ACCESS TO RECORDS

"SEC. 1250. (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.

"COMPREHENSIVE SERVICES PHASE-IN

"SEC. 1251. The Secretary may grant a waiver to an applicant for assistance under this title, with respect to the provision of a specific service, required to be provided as a component of comprehensive health services where he determines that—

"(1) such service cannot be provided by the applicant solely because the required health manpower or equipment to provide such service is not available; and

"(2) the applicant has a feasible plan to provide such service at the earliest possible date, such date not to exceed three years from the date assistance under this title is first granted to such applicant.

"COMPREHENSIVE HEALTH SERVICES FOR INDIANS AND MIGRANT WORKERS

"SEC. 1252. The Secretary is authorized to contract with health maintenance organizations, to provide health services to individuals who are eligible for such services from the Indian Health Service or under section 310 of this Act.

"PART C—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"SEC. 1260. (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 purposes of this section such sums as may be necessary.

TITLE II—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

SHORT TITLE

SEC. 201. This title shall be known as the "Commission on Quality Health Care Assurance Act of 1973".

STATEMENT OF PURPOSE

SEC. 202. 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. 203. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"TITLE XIII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"ESTABLISHMENT OF COMMISSION

"SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare 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. 1302. (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 pargaraph (2), quality assurance systems for health maintenance organizations 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 assesses the accessibility, availability, and acceptability of health care provided by health maintenance organizations, and other providers of health care;

"(E) develop procedures for such systems to report through the policymaking body of the health maintenance, to the membership and to the Commission on Quality Health Caro 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 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) analyze the need for standardization of medical record information and facilitate the development of a system of standard medical reference mechanisms;

"(13) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1309; and

"(14) 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. 1303. (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 the Commission with respect to its 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. 1304 (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(60) 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:

"'(98) Members, Commission on Quality Health Care Assurance (10).

"'(99) General Counsel, Commission on Quality Health Care Assurance.'

"APPLICABILITY OF COMMISSION REQUIREMENTS

"SEC. 1305. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1302 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 his 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 1302 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. 1306. (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. 1307. (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. 1308. (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 1302. 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. 1309.(a) A provider of health care that possesses a valid certificate of compliance issued under section 1302 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 Commisison. 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 Commisison 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 retained 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 by the Commission, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"PUBLICATION OF CRITERIA AND NORMS

"SEC. 1310. (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 day 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 hear-

ing, 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 notice of 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 criterion 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. 1311. (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 1302 of this Act.

"(b) Any State which at any time desires to assume responsibility for the development and enforcement of health standard, criteria, or norms relating to any health issue with respect to which a Federal standard, criterion, or norm has been promulgated under section 1302, 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 1302 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 this 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 1302, 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, criteria, 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. 1312. (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 of 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 in the United States District Court 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. 1313. For the purposes of this title, the term—

"(1) 'input measure' means assessment based on the qualifications of personnel, facilities, and equipment required to provide medical care;

"(2) 'process measure' means assessment based upon the conformance of medical decisions and action 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 contacts, 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) '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. 1314. There are authorized to be appropriated for the carrying out of the provisions of this part $15,000,000 for the fiscal year ending June 30, 1974; $40,000,000 for the fiscal year ending June 30, 1975; and $70,000,000 for the fiscal year ending June 30, 1976."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 204. (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 XII (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. KENNEDY. Mr. President, this amendment represents the best considered judgment of the members of the Health Subcommittee. I think it is an amendment that, if accepted by the Senate, would move us a long way down the road toward achieving the development of HMO's in this country as an alternative to the present system.

Mr. President, just very briefly, I would like to summarize what is incorporated in this amendment, which comes now as sponsored by the Senator from New York, the Senator from Pennsylvania, and myself.

What in effect we are doing is to broaden the whole concept of health maintenance organizations with a broader definition and with waivers permitted in the legislation which can be exercised by the Secretary of HEW. It will certainly be possible to develop health maintenance organizations in urban areas as well as in rural communities. Therefore, the need for a separate health service organization title is not as great as it was in the legislation that was debated on this floor yesterday.

I feel that now, with the essential aspects of the definition of health maintenance organization still being maintained, but with some additional flexibility in terms of the payment of particular doctors who are a part of those health maintenance organizations, we have provided flexibility which I think some minority Members were very much concerned about, and yet have retained the essential character of the health maintenance organizations to a degree which will warrant and justify a Federal taxpayer support. I believe this is a concept which can and should be endorsed by the Senate.

The second title maintains the concept of open enrollment and capitation subsidies, as we debated that question yesterday afternoon. These particular provisions recognize the fact that there will be many millions of Americans who will be unable to afford even the premium to enroll in health maintenance organizations. They will not be the extremely poor, because the extremely poor will be covered by medicaid, and they will not be the wealthy, because they will have satisfactory resources in order to enroll in health maintenance organizations, but for the most part it will be lower middle income groups, those with incomes somewhat above $5,000 and below $10,000, perhaps with large families, where in our best judgment, the premiums would probably be from $600 to $800 a year to cover the essential services for a family. It probably, in the overall picture, will save them money over what they are expending at the present time, whether it be under some kind of arrangement made with their union or otherwise, but permit some flexibility by the Secretary of HEW to provide additional capitation or premium support, so that individuals who fall within this particular financial bracket will be able to enroll in health maintenance organizations. It will also assure that HMO will not have to raise their premiums above a reasonable level if they enroll some individuals who are chronically ill, or perhaps are developed in areas where there is a larger percentage of elderly people who would require more services.

There is no sense, for example, in requiring the working people in such areas to pay a disproportionate amount in premiums to make up for the additional services that may be utilized in meeting the health needs of a given section of the population, whether the chronically ill, the elderly people, or others who may be utilizing particular services within the HMO at a high rate.

We recognize that this is strictly a temporary measure. We realize that Congress and the Senate will eventually come to grips with a health insurance proposal, whether it be the kind of proposal incorporated in S. 3, or whether it be an AMA proposal, a hospital association proposal, or any of a wide range of different arrangements that may be considered by the Senate. We hope that during the period of the next 3 years the Senate will respond in a way which will eliminate the ability to pay as a criterion for receiving decent health care in this country, which I think ought to be the concept and the principle upon which consideration of any health legislation should be based, particularly with health programs that have tax support.

What this proposal does, under this amendment, is to indicate that 15 percent of the money actually appropriated under title I shall be used for either an open enrollment or a capitation subsidy. This is not really what I would like to have seen, not what we introduced in the Senate initially, and not really what came out of the Subcommittee on Health by a vote of 14 to 1, or even as it was included in the amendment I introduced yesterday; but once again, it does have the advantage that at least some money will be included in this particular program.

I recognize the value of that concept under the particular provisions that were introduced yesterday. The Appropriations Committee or the administration may have seen the value of that concept. Under the provisions that were introduced yesterday, the Appropriations Committee or the administration may have seen fit to fund one provision, title I, and not title II, the open enrollment and capitation subsidy provisions and, therefore, failed to achieve what I think was a very legitimate objective of health policy. But this will require that at least some money be allocated for those purposes, and I think 15 percent is a reasonable figure.

We are also maintaining in our proposal a Quality Control Commission, recognizing, if we are going to underwrite the development of an additional health delivery system by taxpayer funds, that we ought to make sure it will be a quality system.

We have outlined and debated that question of the Quality Care Commission. We have introduced the Commission with the malpractice reinsurance provision, which had been a part of our initial act. That aspect had been considered by the President's Commission on Medical Malpractice, which has raised some serious questions about it. The proposed amendment does not include such a provision. The provision for arbitration of medical malpractice disputes is retained.

The grand total for this proposal is some $705 million for a 3-year period. I would reiterate to the Senate that this body passed a 3-year authorization in excess of $5 billion last year. We are now considering some $705 million. Under that limitation, we will achieve only approximately the development of one-eighth of the number of health maintenance organizations that the administration itself indicated it wanted to achieve, through the testimony of its Secretary of HEW, a little over a year ago. So we are not only not, I feel, meeting even the minimum needs of the country, but even the announced goals of the administration. Nonetheless, we are into that particular situation at the present time, and in these final hours of the debate, we are trying to reach as nearly a common ground in our proposal as we possibly can.

So it is in this spirit that we have worked out this agreement. It is not the one that I would have liked to see acted upon. I think that we had a reasonable and responsible proposal earlier, when it came out of the committee. That was a bare minimum proposal but, nonetheless, we are dealing with legislative realities this afternoon. That is where we find ourselves.

I would say, in conclusion, that this amendment brings the very valid and good judgments of the distinguished Senator from New York (Mr. JAVITS), who has been enormously interested in the development of the concept of the HMO and has been one of the most active participants in our own deliberations of it. It reflects many of his views as well as those of the distinguished Senator from Pennsylvania (Mr. SCHWEIKER) who is the ranking Republican member of the Health Committee and who has been one who, I think, has shown enormous sensitivity to this particular issue and support for it as a concept.

Thus, I would hope that we could move ahead with this amendment and that the

Senate will accept it and support it this afternoon.

Mr. JAVITS. Mr. President, I am very much pleased that the Senator from Massachusetts has seen fit to accept so many of the aspects of the substitute which, on behalf of myself and Senator SCHWEIKER, we had submitted to the Senate, rather than to let the HMO legislation, which is so important, be imperiled or defeated or emasculated by sticking to a position which simply could not be entertained through existing circumstances.

Obviously, Mr. President, as I have now entered into the compromise arrangement with Senator KENNEDY, as has Senator SCHWEIKER, I shall not call up the substitute of which I gave notice yesterday and which has been available for all Members to consider in the RECORD. I am very much pleased that the Senator from Massachusetts has formalized that situation by withdrawing his own substitute and inserting now the agreed upon substitute which I hope the Senate will support.

I think it is important to note the points of agreement which have been reached and the places at which there have been changes from our substitute which I have been prepared to offer.

The aggregate amount, which is the total authorization level, is the same, $705 million over 3 years.

There is no separate authorization for either capitation of open enrollment subsidy grants, but the amendment does provide that for each of the subsidies, the Secretary shall utilize not less than 7½ percent of the amounts actually appropriated under part A to demonstrate the effectiveness and utility of the HMO's. This will give HMO's the broad coverage which will come from the capitation grant which affects individuals otherwise unable to meet the HMO premium expense and the grants which deal with open enrollment high risk enrollees. It is fair to say, in order to demonstrate the validity of the HMO concept, that it is necessary to broaden the base of the clientele in that way.

So I have accepted those two provisions from Senator KENNEDY. The amendment that deals with the definition of the HMO is being broadened to make individual practice with reimbursement among the medical group on a fee for service basis eligible. Therefore, the need for the so-called supplemental HMO's is no longer present.

On the other side of the spectrum, that is, as to a different method of compensation for the provider, that is a necessary element of whatever proof we can make about the HMO.

Now, the deletion of the Federal malpractice reinsurance program is a very important point because we should legislate the reinsurance program, if, as, and when we do, with full contemplation of the complete report which has recently been made. It seems to be agreed that that could not, because of time and other limitations, be reflected in this bill. Hence, we must do it right, if we are to do it at all, rather than be precipitate about it, which I feel the original bill was.

So, the Senator from Massachusetts has agreed that the Committee on Quality Health Care Assurance shall go into HEW, rather than be an independent agency. Again, this is a question of proliferating the independent agencies in the Government in a way which is not essential to their proper functioning. It is desirable to keep this Commission under the tent of the HEW.

One further change which has been made, that is, to broaden the authority of HEW to waive a specific element of health service, not only due to lack of adequate health manpower, already contained in the bill, but also due to lack of equipment. This is essential, especially in rural and otherwise less-settled areas of the country, where equipment to the maximum extent we desire to provide services are often not available.

Mr. President, my dedication to reform and improvement of the health care delivery system by the development of HMO's was expressed in detail in the text of my prepared remarks in support of amendment No. 122—which I will not now call up in view of the recent developments, but I ask unanimous consent that such prepared remarks be printed in the RECORD at this point.

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

STATEMENT BY SENATOR JACOB K. JAVITS IN SUPPORT OF JAVITS-SCHWEIKER AMENDMENT NO. 122

Mr. President, the major differences between S. 14, which authorizes appropriations of $1.5 billion over three years, and my amendment number 122, in the nature of a substitute, which authorizes $705 million for the same period, are:

First, the amendment deletes $440,000,000 authorized for capitation grants which are a Federal subsidy to HMO's for: (a) portion of premium cost which individual was unable to pay; and, (b) for the continuation of an open enrollment policy which leads to premium increases due to acceptance of high risk enrollees, e.g. the chronically ill. In lieu thereof, the amendment authorizes the Secretary to utilize existing legislative authority to achieve that goal and thus demonstrate the effectiveness and utility of HMO's.

Second, the amendment deletes the Health Service Organization and Area Health Education Center programs and eliminates $265,000,000 authorized for such separate categorical programs of Federal assistance, the goals of which can be accomplished under the definition of a Supplemental Health Maintenance Organization, authorized by both S. 14 and unchanged in the amendment.

Third, the amendment establishes the Commission on Quality Health Care Assurance in the Department of Health, Education, and Welfare—which is working to achieve the Commission's goals—rather than as an independent agency as provided in S. 14. Establishment of another Federal agency with jurisdiction over only a small segment of the health care delivery system, a segment which would not necessarily include the traditional delivery modes, would, I believe, seriously complicate the task of improving our capacity to assure that health care provided the public meets basic professional standards.

Fourth, the amendment deletes the malpractice reinsurance provisions in S. 14, and so provides opportunity for Congress appropriately to act on the recent "Report of the Secretary's Commission on Medical Malpractice" recommendations (aimed at preventing medical injuries, deterring unnecessary malpractice claims, improving the efficiency and fairness of the claims-resolution process, and providing prompt rehabilitation and equitable compensation of medically-injured persons) which was not available at time of Committee action on issue.

Fifth, the amendment broadens the scope of the Secretary's authority to waive specific required health services in an HMO if there is a lack of health equipment or facilities, in addition to lack of health manpower, as provided in S. 14.

When Senator Kennedy initiated hearings in the 92nd Congress on the precursor to S. 14, I shared the view of Senator Magnuson, also a cosponsor of the measure, that this bill was not a finished legislative product, but rather, and I quote ". . . an extremely valuable working paper, a springboard for serious Congressional consideration of reorganization and reform of the complex issues involved in the delivery of health care."

Also, I made clear that I am not, and I quote, "doctrinaire regarding this bill." My support is for reform and improvement of the health care delivery system, which I believe is the principal purpose of S. 14. Therefore, the essential legislative concepts embodied in S. 14 and carried forward by this amendment are:

1. To insure that Federal assistance will effectuate real change in the health care system, the essential elements of the HMO concept are defined with great precision: (a) provision of comprehensive medical services; (b) to a defined enrolled population; (c) on a prepayment rather than a fee-for-service basis. In the recognition that bringing such organization into the delivery of medical care is "a consummation devoutly to be wished," but may not come to pass, the flexible HMO concept, which encompasses a wide range of possibilities for methods of delivering medical care, is also authorized—supplemental HMO's. For example, the individual practice type HMO's—such as foundations for medical care sponsored by local medical societies—which also seek to stimulate innovation in health care delivery, are eligible for Federal support.

2. I believe there is sufficient evidence to warrant closed panel prepaid group practice as the optimum organizational form of health care delivery. However, to assure a response to varying local needs and capitalize on the strengths and flexibility of the pluralistic health care system already in place, providers are encouraged to work within any one of a number of HMO settings consistent with principles and reasonable criteria which are more likely to be accepted by providers and will therefore bring about reform in the health care delivery system in the long term; but not to the degree and with the rapidity contemplated by the strictly defined HMO. For that reason, I believe that supplemental HMO Federal support should come only when all qualified applicants authorized under part A of title I of the amendment have been funded. That is not to say such HMO's are inferior but rather such HMO applicants choose not to meet the strict definition and provide the broad range of health benefits mandated by part A of title I of the amendment.

3. The financial and organizational aspects of the bill are important—but even more important, is the Government's commitment pursuant to section 1213 of the amendment, to using its considerable leverage to force change where voluntary change would never come. In essence, this provision overrides State law through the use of Federal power in respect to State laws which prohibit or impede the operation of community oriented, consumer sponsored, prepaid group practice units. This represents a major shift from a time when the Government was the willing partner of those forces fighting to maintain the status quo in health care organization in the United States. As the inequities in health services available under the present system have become more widely recognized, the inadvisability of maintaining a system that re-

sponds primarily to the professional interest, often at the expense of the public interest, has become manifest.

I believe that if there is to be an effective, meaningful HMO alternative in this country, restrictions must be removed relating to the formation and operation of HMO's characterized by: State laws which vest the control of health plans in the hands of the medical profession: regulations by insurance commissions which seek to adapt prepaid group practice plans to principles of insurance by blurring or ignoring the distinctions between direct service organizations and third party cash indemnity payers; common law practice of medicine rules which prohibit altogether the use of the corporate form for the provision of health services; and use of ethical sanctions by local medical societies to deter physicians from participating in prepared group practice.

The extent of the problem of State laws that often hamper HMO development was confirmed by Elliot L. Richardson, former Secretary of the Department of Health, Education and Welfare, when he testified before the Subcommittee on Health, Committee on Labor and Public Welfare, that:

"Many States impose legal restrictions on HMO development which will have to 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.

This is achieved and in a manner which assures that the supplanted State laws do not leave HMO's free to function in a "vacuum," relieved of State and local regulations. Rather, the HMO, which otherwise conforms to State laws for incorporation and licensing of health professionals, must provide health care services in accordance with the strictly defined provisions of this act.

4. The need for assurance of quality health has been one of the great challenges of delivering health services and transcends any one form of health delivery. We must improve our ability to assure the public that the services they receive are of a quality which meets basic professional standards. To achieve this goal, the amendment establishes a Commission on Quality Health Care Assurance in the Department of Health, Education, and Welfare, which, in essence would: monitor quality mechanisms, prescribe criteria and norms and certify provider quality programs. Also, by establishing the Commission in HEW, we could have the benefit of the Department's working toward the development of a nationally applicable quality assurance system, e.g. the Professional Standards Review Organizations program recently established by Public Law 92-303, which provides a basis for further steps in that direction.

5. There is much to be said for the need to assure, in accord with professional standards, the effectiveness and utility of HMO's in serving all people. However, I am not convinced that the authorization of $225,000,000 for capitation grants to HMO's (section 1245(a)(1)) to meet the expenses of their premiums for persons who could not otherwise afford them, or of $215,000,000 for grants to meet the premium increase of an HMO (section 1245(b)(1)) due to its fulfillment of the open enrollment requirement and the HMO's acceptance of high risk enrollees, is appropriate or necessary to accomplish the goals of the legislation.

The Committee was properly ". . . concerned that all people have an opportunity to benefit from programs subsidized by Federal funds," and agreed that the purpose of the authorization for capitation subsidy was ". . . a stopgap measure of authorized funding support" until a program of national health insurance was enacted into law. However, I am concerned that the provisions—authorizing almost a half billion dollars—will hold out false hopes to millions of Americans: that they can expect the Federal government to pay for their health care insurance premiums.

I recognize the need to provide adequate funding resources for people unable to afford the cost of comprehensive health care or those suffering from preexisting illnesses who otherwise could not obtain comprehensive health care and thus demonstrate the effectiveness of HMO's in providing such care. And I am mindful that until such time that the HMO is able to have a sufficient number of enrollees over which to spread the premium cost for such people, it will be difficult for the HMO or its limited number of enrollees to bear such costs. However, I am confident that there is current legislative authority, under which the Secretary of Health, Education and Welfare could achieve the goal of demonstrating HMO's can serve all persons.

6. We are all concerned about the medical malpractice crisis and recognize that it is not susceptible to a simple solution. Unfortunately, when S. 14 addressed itself to the problem of medical malpractice reinsurance and in response there to established a program of Federal medical malpractice reinsurance, it did not have the benefit of the "Report of the Secretary's Commission on Medical Malpractice". The report cites, and I quote: "This allegation has led to proposals that the Federal Government provide malpractice reinsurance." It then states: "The Commission finds that to the extent that medical malpractice reinsurance is available in the primary market, it is also available in the reinsurance market."

The availability of such insurance is previously discussed and the report states: "The Commission FINDS that malpractice insurance is currently available to health-care practitioners under group plans and the market for such insurance is competitive. Malpractice insurance is also available to individual health-care practitioners, although they appear to have more difficulty in locating insurance sources. Umbrella and excess coverage are also available both to individuals and under group plans."

Thus, given the finding that reinsurance is available where medical malpractice insurance is available and the above cited Commission finding (and the statement in the appendix to the "Report of the Secretary's Commission on Medical Malpractice" that ". . . malpractice insurance is generally available to qualified practitioners and institutions"), I believe it appropriate for this amendment to delete the reinsurance provision.

7. We are all interested in enhancing the Commission's effectiveness in assuring quality medical care, but I am not convinced—and there has not been the necessary compelling evidence to prove—that independence from an established executive department is somehow crucial to fulfilling the need for responsiveness, to resisting the pressures of politics and competing public and private interests, to the visibility and accountability of decision making, and impliedly at least, to the ability to utilize increased resources effectively. Therefore, the amendment establishes the Commission in the Department of Health, Education and Welfare in recognition of the reality of governmental responsiveness. I believe independent status would, in this case, impede the Commission's effectiveness because:

First, an independent agency is no more visible or accountable to the public than an agency within a Cabinet-level Department. Indeed, just the opposite would appear to be true: the Cabinet officer and agency head who reports to him are always publicly visible and accountable for their actions to the Congress, to the President, and to the public. While the actions of independent agencies are equally visible, the heads of independent agencies are often insulated from such accountability by their fixed terms of office.

Second, independent agencies are no more insulated from political and other pressures than agencies within departments. The independent regulatory agencies have not historically shown greater resistance than other agencies to the pressures that often cause agencies to identify their interests with those of the industries they regulate.

Third, independent agencies do not have any greater access to the President than do executive departments. Quite to the contrary, they undoubtedly have less access, since there are a total of 62 separate entities presently reporting directly, in a formal sense, to the President. Only 11 of these 62 are Cabinet departments; the remaining 51 entities clearly are at a disadvantage as compared with the departments. And this disadvantage is compounded each time a new independent entity is created.

Indeed, the growing proliferation of separate entities in theory reporting to the President has led all the bipartisan, blue-ribbon Commissions which have studied the organization of the executive branch, from the Hoover Commissions to the Ash Council, to recommend that the existing entities should be combined into fewer, larger Cabinet-level departments organized along functional lines.

Fourth, independent regulatory agencies have historically fared poorly in the governmental competition for resources. It has often been noted that the independent regulatory agencies are really the stepchildren of both the Congress and the executive branch. Examination of the budgetary records over the period of fiscal year 1970 through fiscal year 1973 shows that the percentage growth of six independent regulatory agencies ranges from a low of 6 percent to a high of 38 percent, with the average at less than 26 percent. This compares with growth of 89 percent for FDA over the same period.

Fifth, from a functional point of view, there are important interrelationships between the Commission and HEW's other major health agencies, and these ties should be further strengthened, rather than disrupted, in the interest of public health.

President Nixon has identified the advantages of HMO's, endorsed the concept, and indicated the role the Federal government should play in encouraging their development. The President said, and I quote: "I do not believe that HMO's 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 and urge the adoption of this amendment which will enable us to achieve that desired goal.

Mr. JAVITS. Mr. President, therefore, Senators SCHWEICKER, KENNEDY, and I have worked together to resolve our differences, and have developed a mutually acceptable amendment in the nature of a substitute for S. 14, which Senator KENNEDY will introduce on behalf of all of us.

In order for Senators to be able to readily identify how the differences are reconciled, I ask unanimous consent that an analysis as to both substitutes and the compromise substitute be placed in the RECORD.

There being no objection, the analysis is ordered to be printed in the RECORD, as follows:

COMPARISON OF DIFFERENCES BETWEEN KENNEDY SUBSTITUTE AMENDMENT AND JAVITS/SCHWEIKER SUBSTITUTE AND KENNEDY/JAVITS/SCHWEIKER AMENDMENT

JAVITS/SCHWEIKER	KENNEDY	KENNEDY/JAVITS/SCHWEIKER
I. Authorizations:	Total, $865,000,000.	Total, $705,000,000 (per Javits/Schweiker).
Total $705,000,000.	Part A, $430,000,000.	Part A, $430,000,000.
Part A, $430,000,000.	Part C, 0.	Part C, 0 (per Javits/Schweiker).
Part C, 0.	Part D, 0.	Part D, 0 (per Javits/Schweiker).
Part D, 0.	Part E:	Part E:
Part E:	Initiative awards, $125,000,000.	Initiative awards, $150,000,000 (per Javits/Schweiker).
Initiative awards, $150,000,000.	Capitation subsidy, $125,000,000.	Capitation subsidy, 0 (per Javits/Schweiker, but 7.5% of appropriations reserved, to demonstrate HMO effectiveness).
Capitation subsidy, 0.	Open enrollment subsidy, $115,000,000.	Open enrollment subsidy, 0 (per Javits/Schweiker, but 7.5% of appropriations reserved, to demonstrate HMO effectiveness).
Open enrollment subsidy, 0.	Quality Commission, $70,000,000.	Quality Commission, $125,000,000 (per Javits/Schweiker).
Quality Commission, $125,000,000.		
II. HMO definition:	Broaden to include individual practice and fee for service payment.	Per Kennedy and thus no need for supplemental HMO's.
Same as S. 14.		
III. Supplemental HMO's:	Deleted.	Deleted.
Same as S. 14.		
IV. HSO's and AHEC's:	Deleted.	Deleted (per Javits/Schweiker).
Deleted.		
V. Federal malpractice reinsurance:	Same as S. 14.	Deleted (per Javits/Schweiker).
Deleted.		
VI. Commission on Quality Health Care Assurance:	Same as S. 14, established as independent agency.	In HEW (per Javits/Schweiker).
Establish in HEW.		
VII. Waiver of defined health benefits:	Same as S. 14, limited to lack of health manpower.	Broadened to Lack of Facilities (per Javits/Schweiker).
Broadened to include lack of facilities and equipment.		

Mr. JAVITS. So, Mr. President, in sum, and I know that the Senator from Maine and the Senator from Colorado may still have some amendments of their choosing to the substitute which we have proposed, I believe that the substitute is a reasonable accord and will give a true and effective trial to the concept of the HMO.

I do not believe that any national health plan—and it is pretty well agreed now that there should be one, whether it is Senator KENNEDY's, mine, the American Medical Association's, or the American Hospital Association's, or some other plan—will have to depend on the reorganization of the health care delivery system.

Without it, we have nothing, no matter how elaborate the plan we may erect or however we may choose to back it up financially, because it is the services and the facilities that count.

This is the way in which we inaugurate, really, what will ultimately become some form of national health scheme—which I think is the best word considering the uncertainty as to the exact form it will take.

For all of those reasons, Mr. President, I urge the Senate to approve the substitute as the best way to prove the concept which we desire to get approved with respect to HMO's, and to reconcile the differing views as to the nature of the HMO which we desire to develop under the aegis of this law.

Mr. President, I believe that the distinguished Senator from Maine (Mr. HATHAWAY) is now prepared to take the floor with his amendment, so I yield the floor.

Mr. HATHAWAY. Mr. President, I have an amendment at the desk which I ask be stated.

The PRESIDING OFFICER (Mr. JOHNSTON). The amendment will be stated.

The assistant legislative clerk proceeded to read the amendment.

Mr. HATHAWAY. 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 the amendment will be printed in the RECORD.

The text of the amendment is as follows:

Insert after section 1207 the following:

"SPECIAL RURAL AREA GRANTS

"SEC. 1208. (a) The Secretary is authorized to make grants and loans for planning and feasibility studies, initial development costs, construction, and initial costs of operation to health maintenance organizations or nonprofit entities intending to become health maintenance organizations, in non-metropolitan areas.

"(b) There are authorized to be appropriated to carry out the purposes of this section $20,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976.".

Mr. HATHAWAY. Mr. President, first of all, I want to commend the distinguished Senator from Massachusetts (Mr. KENNEDY), and the other Senators who put so much time and effort into this bill, which is a concrete step toward making quality health care available to all of our citizens.

Mr. President, I ask unanimous consent to add the distinguished Senator from West Virginia (Mr. RANDOLPH) as a cosponsor of the amendment.

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

Mr. HATHAWAY. One aspect of the amendment which is now before the Senate, troubled me somewhat. In S. 14, which was the HMO bill as originally reported by the Committee on Labor and Public Welfare, there was a section devoted exclusively to aiding the health care delivery problems of our rural areas. This was, I felt, a particularly important section of the bill because of the crisis in health care delivery which currently affects many rural areas. I do not have to reiterate the many statistics that document this crisis: Entire counties in the United States which have no doctor at all, the astronomical doctor-to-patient ratios that exist in our rural areas. The national average is 152 doctors per 100,000 people; whereas, in Mississippi, for example, there are only 83 doctors for every 100,000 people. Another factor is the great distances between medical facilities.

I think all these facts speak eloquently to the need for new health care initiatives in the rural areas. Because of these problems, I was concerned by the dropping of the rural-oriented sections in the bill before the Senate.

I note, however, that the HMO definitions in the amendment now pending have been broadened so that arrangements more appropriate to rural areas will be allowed. But I am still bothered by the lack of any specific earmarking of funds for nonmetropolitan areas contained in this amendment.

For this reason, I am offering an amendment which would add a new section specifically authorizing grants and loans for HMO's and HMO type arrangements in rural areas.

I want to make clear, however, that the purpose of this amendment is to establish a floor and not a ceiling for rural emphasis programs. Rural-based projects should still be able to compete for loans and grants authorized under other sections of the bill. The purpose of the amendment is to make clear in the statute itself that a substantial portion of the HMO's made available by this act will flow to our small towns and rural areas. The amendment itself provides for an additional $100 million—$20 million for the fiscal year ending June 30, 1974, $30 million for the fiscal year 1975, and $50 million for the fiscal year ending June 30, 1976.

Mr. KENNEDY. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. KENNEDY. Mr. President, I believe the Senator has made an extremely constructive observation, one with which I am wholly in sympathy, and that is about the development of the various health maintenance organizations in rural communities.

Some of the greatest health needs in this country today are in rural communities as well as in the inner cities. The health maintenance organization concept was developed with the full understanding that there was such a need in rural America as well as in urban areas. That is why we developed a health service organization in the initial version of S. 14. We considered the definition of health service organizations to be a good deal more flexible, recognizing the potential for the shortage of health manpower and various specialties and facilities in rural communities. Therefore, we are much less stringent in the requirements for the development of HMO's in rural communities.

Also, we broadened the general definition of health maintenance organizations as they applied generally across the board and gave to the Secretary of Health, Education, and Welfare waiver authority. We are going to permit him to waive certain requirements as they relate to the development of certain services that are otherwise identified in the proposed legislation and for the construction of various facilities, which were really the two key areas with which we were most concerned with regard to rural areas. So we have given this kind of flexibility to the Secretary of Health Education and Welfare.

Under our definition, it is certainly my intention and my interpretation of the language that the development of health maintenance organizations will take place in rural America as well as in the urban areas. If we had looked at the initial measure that was introduced, the Senator from Maine and others interested in the development of health service organizations or HMO's in rural communities would have recognized that at least a third of the total budget for the development of HMO's was specified to be in rural America, with the possibility even then of additional funds. But that was a concept and an idea which has always been a part of the development of this legislation and continues to be so at the present time.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on the amendment.

The yeas and nays were ordered.

Mr. KENNEDY. So I think that this amendment is constructive and positive, and I think it will indicate full well the commitment of this body to develop these types of rural arrangements.

The Senator speaks with considerable authority. I am sure he is aware of the splendid program that has been developed in Farmington, Maine, Rural Health Associates. I understand that in Penobscot Bay is another program called Penbay, which is another effort to develop these programs. We had some extremely interesting testimony by Dr. McBride, of Lubec, Maine, and others who talked about this idea and concept and the importance of rural health.

So I would say that, given the fact that we are down today to less than one-half of the total authorization which this body was considering yesterday, this amendment is very modest and reasonable, and certainly is one that I will support; and I urge my colleagues to support and welcome it as a helpful addition to the proposed legislation.

I commend the Senator from Maine for his interest in this area and for his work in it.

Mr. HATHAWAY. I thank the Senator from Massachusetts.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. JAVITS. Mr. President, I should like to explain to the Senator why I asked for the yeas and nays.

I am going to vote for the Senator's amendment. I think it is appropriate to provide in this bill a proper quotient for the rural areas of the country, which deserve to be served as much as the urban areas.

My problem is that, having arrived at a settlement, as it were, with the Senator from Massachusetts, which was $705 million, I feel that, in fairness to the Senate, it is the Senate that ought to vote the $100 million, rather than my accepting it, because it was not part of the arrangement I had with the Senator from Massachusetts. I do not think it will make any difference in the result, as I am sure the Senator will find, but I think it is fair to those Members who have assumed that this matter had been, as it were, closed out at $705 million. That is the reason why I asked for the yeas and nays.

Mr. HATHAWAY. I appreciate the Senator's comments.

Mr. TAFT. Mr. President, will the Senator yield?

Mr. HATHAWAY. I yield.

Mr. TAFT. I was wondering, in view of the remarks of the Senator from Massachusetts that about a third of the funds involved here are expected to be used in rural areas, whether the Senator's amendment does not merely add 100 million to the bill, not necessarily directing any more to rural areas or any other area. In other words, if this money added by this amendment is for rural areas, it means money is available for other purposes of the bill.

Would it be correct to say it would add $7.5 million additional to the capitation grant section? Is my understanding correct?

Mr. HATHAWAY. I am not sure I got the thrust of the Senator's question. But this adds $10 million specifically for applicants in nonmetropolitan areas.

Mr. TAFT. The Senator from Massachusetts said that one-third of the total bill would go to nonmetropolitan areas anyway.

Mr. HATHAWAY. I think the Senator referred to the original S. 14 bill when we had the health service provision in it; and that under the bill one-third of the money would be spent in rural areas.

Mr. TAFT. Is it not true that under the bill as amended, without the Senator's amendment, that one-third would still be used for rural areas?

Mr. HATHAWAY. No, there is no guarantee.

Mr. TAFT. There is no guarantee, but about one-third would be so used. Is the Senator limiting the total amount to be used for rural areas?

Mr. HATHAWAY. No, as I said in my original statement, and I do not think the Senator was in the Chamber at the time, the $100 million is the floor and not a ceiling on the amount that nonmetropolitan areas might receive. They still could receive much more if their applications qualify under the definition.

Mr. TAFT. Does this make $100 million more avaliable for whatever purpose?

Mr. HATHAWAY. It makes $100 million more available.

Mr. TAFT. For whatever purpose?

Mr. HATHAWAY. For applicants from nonmetropolitan areas.

Mr. TAFT. But it also means that there is another $100 million available for other purposes.

Mr. HATHAWAY. That is correct.

Mr. TAFT. I thank the Senator.

Mr. KENNEDY. Mr. President, I would like to point out that with this acceptance of the amendment we will still be $115 million less than the combined totals for health service organizations which we were considering yesterday during the course of the debate. Even with the acceptance of this we will reduce the total of title 1 and title 2 by $115 million. I think this is something we should understand at the present time.

The PRESIDING OFFICER (Mr. PEARSON). The question is on agreeing to the amendment of the Senator from Maine. 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. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa (Mr. HUGHES), are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES), and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 80, nays 14, as follows:

[No. 138 Leg.]

YEAS—80

Abourezk	Byrd, Robert C.	Fong
Aiken	Cannon	Fulbright
Baker	Case	Hart
Bayh	Chiles	Hartke
Beall	Church	Haskell
Bellmon	Clark	Hatfield
Bentsen	Cook	Hathaway
Bible	Cotton	Hollings
Biden	Cranston	Hruska
Brooke	Dole	Huddleston
Buckley	Domenici	Humphrey
Burdick	Dominick	Inouye
Byrd, Harry F., Jr.	Eagleton	Jackson
	Ervin	Javits

Johnston	Montoya	Schweiker
Kennedy	Moss	Scott, Pa.
Long	Muskie	Sparkman
Magnuson	Nelson	Stafford
Mansfield	Nunn	Stevens
Mathias	Packwood	Stevenson
McClellan	Pastore	Symington
McClure	Pearson	Talmadge
McGee	Pell	Thurmond
McGovern	Percy	Tunney
McIntyre	Randolph	Weicker
Metcalf	Ribicoff	Williams
Mondale	Roth	Young

NAYS—14

Bartlett	Fannin	Proxmire
Bennett	Goldwater	Saxbe
Brock	Griffin	Taft
Curtis	Gurney	Tower
Eastland	Helms	

NOT VOTING—6

Allen	Hansen	Scott, Va.
Gravel	Hughes	Stennis

So Mr. HATHAWAY's amendment to the Kennedy-Javits-Schweiker amendment in the nature of a substitute for the committee amendment was agreed to.

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. JAVITS. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER (Mr. MCCLURE). The question is on agreeing to the amendment in the nature of a substitute offered by Senators KENNEDY, JAVITS, and SCHWEIKER, as amended (putting the question).

The amendment, as amended, was agreed to.

Mr. JAVITS. Mr. President, I ask for the yeas and nays on final passage.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, may we have order in the Senate?

The PRESIDING OFFICER. The Senate will be in order.

Mr. DOMINICK. Mr. President, for the benefit of my colleagues, we are now coming up very close to a final vote on this bill. We have just adopted the Kennedy-Javits-Schweiker substitute which, as amended by the Hathaway amendment, reduces the total authorization from $1.5 billion to $805 million.

It would seem therefore that we can, by passing the measure, get through a meaningful bill. However, I would suggest that their substitute has many of the same problems I pointed out with respect to S. 14 yesterday.

Let me, for the sake of the record, make one additional point not brought out yesterday. Let me read from page 4 of S. 14, a provision which is retained in the substitute:

"EFFECT ON STATE LAW

"SEC. 1213. (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 or supplemental health maintenance 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 or supplemental health maintenance organization in a manner, determined by the Secretary to be incompatible with this title,

a health maintenance organization or a supplemental health maintenance organization, 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.

In other words, this bill in effect automatically repeals a number of State laws. I wonder whether it should not be left up to the State legislatures to decide what kind of controls they think are necessary with regard to medical practice.

Second, the capitation grants, as I understand it, are limited in amounts at this point to about, if I am correct, no more than 7.5 percent or less than 7.5 percent.

Mr. KENNEDY. It is not less than 7.5 percent.

Mr. DOMINICK. Mr. President, capitation grants are no less than 7.5 percent, which means that they are open ended. The Secretary could commit 50 percent, or 100 percent for that matter, of title I money to pay for HMO premium for a small handful of HMO's. I think this money should be used strictly to develop HMO's.

The capitation grant provision does two things. One, it assures that no HMO will probably ever be viable without Federal assistance. Second, it backs into a national health insurance program without having gone through the Finance Committee in any way whatsoever. Third, it operates equally with respect, to those who have a lot of money and those who are poor, because to the extent that we put capitation money into this, it is up to the enrollment figures. Everyone is treated equally, and everyone who is an enrollee, regardless of income, shall be assisted by the Federal Government. Since HMO's under this bill must charge one uniform premium rate, all enrollees benefit from Federal subsidies. Those who cannot afford the premium have the difference made up by the Federal Government. Those who could afford higher premium benefit because the Government subsidies allow them to pay a lower premium than the HMO would otherwise have to charge.

That may be the way that the Senate wants to go. It is not the way in which I want to go. I think we should provide in this bill assistance for development of HMO's, and save national health insurance for legislation which treats it in a comprehensive way.

The bill still establishes a Quality Health Care Commission. This is a Commission consisting of 11 people appointed by the President with our advice and consent, and representative of all types of disciplines, the majority of which have to be somewhat knowledgeable in medicine. It does not say that they have to be in the practice of medicine. They could be teachers or anyone else. They will set up the standards that all doctors within its jurisdiction must comply.

It will also require that any hospital aided by Hill-Burton funds will also have to comply with the national norms and standards. This obviously conflicts with the approach of PSRO which was enacted last year.

It is not that I am against the HMO's.

I think that they have considerable promise for improving health care delivery in this country, and they are entitled to Federal assistance. But this bill is not really designed to do that. A little over half of its authorizations, as amended, goes for development of HMO's. The rest goes for a number of things which are essentially irrelevant to development of HMO's. In short, this bill is unrealistic both in terms of cost and scope. I intend to vote against it, and hope that a realistic bill which I can support will emerge from the House-Senate Conference on the two bills after the House acts.

THE NEED FOR HMO'S

Mr. McINTYRE. Mr. President, I am wholeheartedly in favor of responsible legislation encouraging the establishment of health maintenance organizations.

We need to offer reasonable financial incentives to encourage the establishment of HMO's, and to remove existing legal obstructions to their successful operation. HMO's should be given a fair chance to compete on an equal footing with a view to improving access, enhancing quality, and reducing costs of health care.

I have introduced major legislation, the National Healthcare Act of 1973, S. 1100, designed to provide health care for every citizen through a partnership system of private health insurance augmented by Federal assistance for the poor, the near-poor and the uninsurables. The encouragement of health maintenance organizations plays a vital role in that legislation. I hope that this legislation may be forthcoming from the Senate Finance Committee during this session so that the Senate may have a chance to consider it and move toward providing our people with broad and meaningful health care.

However, I had grave doubts about S. 14 as it was brought before the Senate.

Less than half of the money in that bill went for development and start-up costs of HMO's, which is where our available public funds should be spent. Over half of the funds—$790 million—was earmarked as a downpayment on a backdoor national health insurance program keyed to closed panel health maintenance organizations.

The bulk of that money, $665 million, was allocated to the payment of direct operating grants and awards to those federally-favored HMO's. Those operating subsidies could go as high as 25 percent of an HMO's total premium receipts.

Now that is not helping HMO's stand on their own feet and compete on a fair basis. These grants would insure that no organization funded under this bill would ever be economically viable without Federal subsidies. Since the Government would pay the difference between their premiums and what their enrollees could

afford to pay, they would have no incentive to keep premiums low enough to be competitive with other types of health providers.

Federal support for HMO's should be directed toward the development of more efficient delivery systems which can be competitive without continuing Federal subsidiaries. This is supposed to be the area in which the HMO can excel once it gets started. This is the whole reason for encouraging HMO's in the first place.

There are more than 80 HMO's operating in the country today without Federal subsidy, and many more on the drawing boards of private industry. In fact, there is an HMO available to all Federal employees in Washington, including the Members of this body, at the present time.

The bill also heavily favored one type of HMO the so-called closed-panel HMO over other types which might be more suitable in various parts of our country. The committee report itself, on page 22, recognized that the closed panel HMO "is probably not feasible in most rural areas." Coming from New Hampshire, I was deeply concerned about the health of rural Americans and I am pleased that the Hathaway amendment was adopted.

S. 14 also establishes a new Federal medical malpractice reinsurance program. I can not for the life of me see how this new Federal program is needed to help get fledging HMO's off the ground, particularly since the report of the Secretary of Health, Education, and Welfare's Commission on Medical Malpractice just released the result of its 16-month study of this problem, concluding that such legislation is not needed.

I am happy to say that the amendments to S. 14 offered on the Senate floor today have greatly improved the bill, particularly in opening up the definition of eligible HMO's and bringing greater flexibility into the system. I think this will benefit all Americans as well as benefiting rural Americans in particular. I am going to vote in favor of final passage of this bill because I think the need is great, because I think the further stimulus to HMO's can bring great benefits to the people of our country.

I would like to express, however, my great concern with the operating subsidies which remain in this bill. I think that the delivery of free care or subsidized care to those who have the ability to pay is a grave danger and a bad precedent. I would hope that in conference this point would be given particular consideration and this problem solved before the bill is returned to this body.

Mr. President, I am pleased that the Senate is acting on health legislation. I place the health of the Nation at the top of my priorities.

It is important that we move ahead on improving the HMO program in this country as we are doing in S. 14. Later this week we will consider S. 723, to make existing knowledge in health care more readily available to the medical profession, and S. 504, to help in providing emergency medical assistance through the expanded use of helicopter ambulances and special mobile intensive care units and other emergency procedures.

I compliment the Senior Senator from Massachusetts (Mr. KENNEDY) for bringing S. 14 to the floor. I believe he is doing us a service by making it possible for us to consider ways of strengthening the HMO movement in this country.

Mr. JAVITS. Mr. President, I have heard with great interest the remarks of the Senator from Colorado, and I appreciate them. I think he renders us all a service in bringing them up before the Senate. He should put us to our proof.

For myself, bringing the bill within a reasonable compass, as we have already done, I think it is absolutely essential that it be a necessary prelude to an effort to deal with the national health problem. It now becomes clear that national health care for the individual is too expensive to the rank and file of Americans today. Unless we find some way of mutualizing the risk and placing new emphasis on health maintenance as contrasted with episodic illness health care, we will be inundated by the responsibility. The total bill today is somewhere in the neighborhood of $80 billion.

The most extravagant health scheme, as listed by the analysts at HEW, is something in the area of $115 billion.

Neither of these figures is small and health care costs are a major item in the rising American cost of living. The Senator from Minnesota (Mr. HUMPHREY) is running a very interesting series of hearings in the Joint Economic Committee on this very subject.

The answer is simply that we cannot let it go as it has and face ourselves realistically as decent and humanitarian people. We must recognize that today it is wealth that determines whether we live or die. I have friends, who can afford it, who have been kept alive for years by the latest medical advances and techniques, with plenty of doctors and nurses. And, I also have friends who were cut off, like my own father, at 54, 55, or 56, because they simply cannot afford all this medical care which is available, but cannot be reached because of personal wealth. It is there, but it cannot be reached.

Mr. President, our country is not built that way. We will correct it. The more we learn about health care, which represents the extension of life, the more inducement there is to enter into some form of major health program. I repeat, whether it is Senator KENNEDY's proposal or mine or someone else's, the demand is clearly there. In order to respond to that demand by the people, we have to try out these methods to afford a rationalized, adequate supply of medical care, and the HMO looks like the most promising modality in that area.

So this is really the opening card, as it were, to a great national reform.

I appreciate everything the Senator from Colorado (Mr. DOMINICK) has said. Take, for example, his argument about the lifting of legal restrictions upon HMO's imposed by State law.

This is essentially one of the imperfections, one of the drawbacks of our Federal system. The fact is that you can have 50 types of regulations. In many States, the medical associations run the show, and the medical associations are not always very enlightened. I happen to have one in my State which I think is enlightened; other States may also, but that is by no means the universal rule.

Even Elliot Richardson, our present candidate for Attorney General, who as Secretary of Health, Education, and Welfare, in testifying in regard to HMO legislation, had this to say:

> Many States impose legal restrictions on HMO development which will have to 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.

Mr. President, taking Senator DOMINICK's arguments, as I think we should, at face value, without challenging the factual situation which he presents, we have to make a decision. We have to make a decision whether we wish to sustain the Federal system in respect to this particular matter, notwithstanding that it thwarts a great national reform, or whether we wish to use the national power which is available for exactly that purpose, to be used when we consider it desirable, in order to effectuate that great national reform.

We have done it in many areas. We have often overruled State laws. We have often preempted State laws. But the burden is upon us, Senator KENNEDY and myself, to prove that it should be done in this particular case.

I am deeply convinced that it has to be done, otherwise we are absolutely thwarted in any effort to bring the cost of medical care within reason. So, as I say, I am not challenging Senator DOMINICK's factual presentation; and there may be some Senators who feel that the preservation of the right of each State to write whatever laws it chooses on this subject is so sacred that notwithstanding my deep conviction that it will thwart any kind of national health effort that can be effected, they still want to maintain that right of a State to do as it pleases in this area. I cannot quarrel with that, but for myself, I do not feel that way. I feel that it is antithetical to the interests of freedom and the success of our country to take that position. But I do not feel that there are high moral grounds on which anyone can pontificate. My reasons I have explained to the Senate, and it is for those reasons that I believe the bill should be passed.

Mr. KENNEDY. Mr. President, I shall speak very briefly, because the Senate has considered a number of the points that the Senator from Colorado, a valued member of our committee, has raised this afternoon.

I will say, Mr. President, that the President of the United States, in his message to Congress in 1971, indicated:

> Other barriers to the development of HMO's include archaic laws in 22 States which prohibit or limit the group practice of medicine and laws in most States which prevent doctors from delegating certain responsibilities. . . . Under the supremacy clause of the Constitution, these contracts

will operate to preempt any inconsistent State statutes.

So the President of the United States, in his health message to Congress in 1971, was urging Congress to include this particular provision which has been included in the legislation before us today.

A publication of HEW entitled "A Comprehensive Health Policy for the Seventies," contains a similar statement, indicating, at page 37:

> Finally, the Administration would use the supremacy laws of the Constitution to preempt, in connection with Federal insurance programs, those legal barriers that limit the use of allied health personnel or the organizational form of HMOs.

So what we have included is precisely what the administration requested of us 2 years ago. I think Senator JAVITS has outlined in some detail the reason for it, which is that, for the most part, these laws have been developed by the various health and medical societies over a period of years to prohibit the development of prepaid group practice.

Of course, we do not require that any particular group get into prepaid group practice; all we are saying is that such a group can develop if it is in the interests of the doctors themselves and the other health professionals, and they can meet the requirements of this legislation. That is all we are saying. We are not requiring the preemption of any other part of State legislation.

What we are saying this afternoon is that we would use less than one-quarter of 1 percent of the total moneys being expended by the American people in the general area of health to help build a pluralistic system in the delivery of health care with the hope that, perhaps, because of developments or competition within the health area, we will be able to get a handle on cost and begin to get a real handle on quality and that we will have greater availability of health services to the American people. Finally, let me say, as we have repeated over the course of this debate, if this amount of the authorization is actually accepted, and the money is actually appropriated, we could fund one-eighth the total number of HMO's that President Nixon requested of Congress 2 years ago—one-eighth.

I think that no one can suggest, given the kind of request made by the administration some 2 years ago on behalf of health care, that this is an unreasonable request. I think it is tragically low, as a matter of fact. As we are able to develop the programs, the amount of money that we are eventually going to be able to save the consumer will be many times the amount we are actually authorizing here this afternoon.

Mr. PASTORE. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. PASTORE. As I understand it, what the bill does is to provide grants to groups, either public groups or private nonprofit groups, in order to set up an organization to render this health care to various communities. Is that correct?

Mr. KENNEDY. The Senator is correct.

Mr. PASTORE. Do they have to match this in any way?

Mr. KENNEDY. Only with respect to 25 percent of construction grants and 10 percent of construction loans. They have to meet certain requirements, but they do not have to put up the money, other than these provisions.

Mr. PASTORE. I see.

Mr. JAVITS. Mr. President, will the Senator from Massachusetts yield?

Mr. KENNEDY. I yield.

Mr. JAVITS. Yes. They do not have to match it, in the sense of 50–50, or 90–10, but it takes a big investment to establish an HMO. They cannot do so on what they will get under this bill. They will have to find the credit. They will have to find the subscribers and the backers and the necessary physicians and other health professionals. They are not going to be able to go into this just on the——

Mr. PASTORE. May I be a little more specific, then? Say we have a labor group wanting to set up this organization. They would be permitted to do so?

Mr. JAVITS. Of course. The way they would work it out, once they have the appropriate medical personnel, they would have to get the subscribers to start with, and they would have their whole labor group for that, of course. It would be like those who undertake to establish a co-op. If they have enough people to go into it, they are entitled to bank credit, and so forth.

Mr. PASTORE. Could a hospital do it as well?

Mr. JAVITS. Certainly. Any entity could do it, but it would have to start with basic support, either institutional or financial. That is why I interrupted the Senator from Massachusetts. It is not correct to assume that something will get started with some guy with the idea that he will get the money from the Federal Government. Not at all.

Mr. PASTORE. Do we have a formula in the bill as to how much goes to any particular State?

Mr. JAVITS. No. We would have to leave that to where the development of the HMO's takes place.

Mr. PASTORE. Would it be on a first-come-first-served basis?

Mr. JAVITS. I do not think so. The Secretary will take care of that.

Mr. PASTORE. That is within his discretion, then?

Mr. JAVITS. Yes, that is within his discretion.

Mr. DOMINICK. Mr. President, may I say that any group that wants to start is eligible to apply and get $1 million right off the bat.

Mr. PASTORE. I realize that, but if they are doing it in order to help people get well, what is wrong with that?

Mr. DOMINICK. It is all right.

Mr. PASTORE. We are talking about half a billion dollars for North Vietnam.

Mr. DOMINICK. I was not talking about that.

Mr. PASTORE. But I am talking about it.

Mr. DOMINICK. No one else has been talking about it.

Mr. KENNEDY. Mr. President, there are provisions in this legislation that would provide for resources and for the funding of the initial development of authorization programs for planning and for programing. There is funding in here for some grants and some loans and for the actual development and construction of facilities and also for some loans and grants for initial operation; and other purposes.

In some areas HMO's may well develop without Federal participation and, obviously, there should not be any kind of Federal grant in those particular areas. But what we have recognized is that the idea and concept of the HMO is, as the distinguished Senator from Washington (Mr. MAGNUSON) has pointed out in the Puget Sound area of his State, which has been functioning for about 40 years now and is being developed through contributions from the consumers themselves, and they are still expanding although in a more modest kind of way. Perhaps they will be able to expand into broader sections of the community if they could get additional assistance in underwriting some of their services.

But if I were giving that as an absolute answer, one could say, "Well, what can be done in Puget Sound privately we can do privately," and that is true, but we could not develop the kind of HMO's as we have in my State of Massachusetts which tries to reach down and include many of those in the lowest income groups, trying to give them the same kind of quality health care as someone who has adequate financial resources, because the provision of adequate health care should be equal throughout this country, whether poor or rich.

That is one of the essential aspects of the program.

So, Mr. President, that particular program will need more in terms of grants, that kind of flexibility for a given situation, if they are to develop them such in my State, in Lexington, or in Concord, which are affluent communities, where all they will need is a guaranteed loan provision. But we wanted to, obviously, see a development of these programs—and it is a modest amount to develop—in the rural communities and in the urban centers and also, perhaps, in some of the affluent areas, because we have seen where they have developed that they have had a dramatic impact on the delivery of health care generally.

Mr. PASTORE. The reason why I raise the question is that in my own State, several years ago, the AFL–CIO, with the cooperation of the Diocese of Providence, the Lady of Fatima Hospital, initiated a similar program along this line. Their difficulty, of course, lay, as in most of these places, in the question of money. So they appealed to the various foundations and even came down to see me if I could not intercede on their behalf. Their program was a good one. It was a pilot program. I think myself, what we are doing here today, we are doing something that I think should be more or less adopted by the Senate for the reason that here we are trying to fill a gap in rendering medical service to people who ordinarily find the price prohibitive.

The PRESIDING OFFICER (Mr. MCCLURE). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Is this final action?

The PRESIDING OFFICER. No, it is not.

Mr. JAVITS. I understand.

The PRESIDING OFFICER. There can then be no further amendment except by unanimous consent.

Mr. JAVITS. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. MONDALE. Mr. President, I am pleased to support the Health Maintenance Organization and Resources Act of 1973, which I had the privilege to cosponsor, and to help develop as a member of the Health Subcommittee of the Committee on Labor and Public Welfare.

Proposed national health insurance legislation is addressed to the problem of financing health care. The legislation before the Senate today is addressed to the equally important problem of delivering health care in an efficient way to the American people. If this bill becomes law, Americans throughout the Nation will have a choice between obtaining medical services on the present fee-for-services basis, and obtaining those services on a prepaid basis from a health maintenance organization capable of providing a broad and comprehensive range of health-related services.

There is a growing consensus that health maintenance organizations must play a major role as we design a health care delivery system for the future. Experts agree that group practice, emphasizing preventive care and early detection of disease, can help to cut the spiraling costs of medical care without sacrificing quality.

In my own State of Minnesota, health maintenance organizations are operating successfully in St. Paul and in the northern Minnesota communities of Hibbing and Virginia. Our experience underscores the committee's finding that health maintenance organizations can provide an important contribution to improved health delivery.

Mr. President, the bill before the Senate today represents a major compromise when compared with the bill we enacted last year by the overwhelming vote of 60 to 14. I regret that weakening of commitment from the administration has made a severe scaling down of our proposal necessary. While last year's bill would have provided $5 billion to support the development and initial operation of health maintenance organizations and related institutions, the bill reported to the Senate by the Committee on Labor and Public Welfare would authorize a maximum of $1.5 billion for these purposes over 3 years. And the final version of the bill authorizes only $805 million. But with this adjustment, I believe that S. 14 deserves the wholehearted support of the Senate, the House, and the President, so that we can make a start now toward meeting the Nation's need for a sound system of health care delivery.

I am especially pleased that the Institute of Interdisciplinary Studies, in my own State of Minnesota, has been a leading force in developing the health maintenance organization strategy. The Institute's Dr. Paul Ellwood was instrumental in persuading the adminsitration to endorse this approach. And Dr. Ellwood and his interdisciplinary team have been a valuable resource to the Health Subcommittee in its work.

Mr. President, I wish to thank the Senator from Massachusetts (Mr. KENNEDY)—the chairman of the Health Subcommittee—and his excellent staff for their work in developing our proposal. I am proud of the contribution which a number of outstanding Minnesotans have made to this bill. I urge its adoption by the Senate, and hope it will be quickly enacted by the House and sent to the President to be signed into law.

THE HEALTH CRISIS, THE CONSUMER, AND PREPAID HEALTH CARE

Mr. MOSS. Mr. President, health care delivery is presently suffering sizable strain in spite of the many advances that have occurred in medical research in the past decade. Costs of medical care are rising 10 percent per year, with the Nation already spending $80 billion per year on health care. Insurance coverage constantly leaves consumers of health care holding the bag for unexpected fees and services. Public dissatisfaction rises as the gap between what is possible and what is available widens. In the last few days we hear of plans of two major medical schools in the country to close their doors in the next 2 years because of lack of funds. Residents in rural America and the core section of central cities watch complicated surgery on television medical shows but find the most basic care unavailable to them because of a lack of doctors in their neighborhoods.

This situation need not continue to exist. Variety and pluralism have long been a hallmark of the American tradition, but in health care, a single method—a single system of health care delivery tends to dominate the entire country.

As a cosponsor of S. 14, the Health Maintenance Organization bill, I have already indicated my desire to help stimulate the creation of new proven innovations in health care delivery. The creation of clinics and group practice patterns similar to the "Kaiser" system is a small, careful, but vitally necessary step in developing alternative forms of health care delivery. There is nothing compulsory in this bill. It simply allows the opportunity to join together in the best form of medical practice available. At present there are significant obstacles in providing this kind of group practice.

THE PATIENT BENEFITS

Through prepaid participation in HMO, a patient can go to one building and receive comprehensive health care. All of his records will be located at this facility and will be shared by all the doctors concerned. He will not have to go to one end of town for his earache and to another end of town for his skin rash. And doctors will have complete, rather than partial, medical records available instantaneously. Such a system will also allow better use of health professions such as nursing and paramedics. This will reduce the cost of health care while at the same time improving its quality.

This bill also makes provision for consumers to be included in establishing policy for the organization. There will be consumer representation on the policy-making board of HMO's that receive funds under this bill. Second, the bill also makes provision for patient grievance to be heard and resolved. Such a procedure is sound and reasonable and should allow for steady improvement in the medical service through the mutual effort of the doctor and his patients. Though this is generally a new idea, it has been tried and tested and results have been more than satisfactory. A 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 the cost and organization of a fee-for-service medicine. They decided to organize a group practice clinic in which control would rest on members of the cooperative rather than with the doctors.

The results of prepaid health cooperative have been favorable. Medical costs are generally held below the national average; the same is true for the number of days for hospitalization per year for each co-op member. When the entire cost of health care is paid for with a specific fee, there is a strong incentive for those who practice health care to find the most efficient and effective ways of delivering this care.

ASSURING HIGH QUALITY HEALTH CARE

A key provision in this legislation is the creation of the mechanism to review, evaluate, and improve health practices. Everyone benefits from having his own work reviewed, and doctors are no exception. This is an extremely important aspect of this legislation, for it can do much to help the medical profession begin to evaluate more effectively the kind of health care received by the country.

Cannot doctors be trusted? Of course they can. But doctors are busy people, and medical advances are coming at such a rapid rate that it is impossible for a normal physician to keep up with all of the developments. A review mechanism that assesses health care and suggests new ways of treatment should be welcomed by practitioners of health care. At present there are some shocking divergences in the way medicine is practiced in various parts of the country. There is no reason for the continuation of this confusion. Unlike some professions, medicine is a universal art and science. Regional variations of the practice of specific treatments for specific diseases only reflect the lag time in the dissemination of new information. The Commission on Quality Health Care Assurance created under this legislation should help bring about improved practices throughout the country.

I strongly support the concept of measuring outcomes to determine the effectiveness of health care. It is strange indeed that much of the evaluation of medical practice has focused on techniques rather than the final health of patients. A much more appropriate procedure would be to review the health of those who have been treated and then relate this to the practices involved. I have been impressed with the works of Dr. John Williamson in this area and

would like to quote from his recent study, "The Next Step: Quality Assurance Programs." This study points out that the best health care in the hospital is not always sufficient—if health care practices do not extend to treat the "whole man" and his behavior patterns once he leaves the hospital, serious failures may result:

In a recent study of diastolic hypertensive patients in a working class group of people generally seen in a city hospital emergency room, we identified a case fatality rate double maximum expectations. The causes of the inordinate mortality were found to relate directly from lack of follow-up care and low patient compliance resulting in prescriptions not being filled and needed cardiovascular medications not being taken. A large number of these individuals died in heart failure with their major illness uncared for, with both private physicians and city hospital staff legitimately disclaiming responsibility under our present system . . . the results encouraged the staff to develop a new follow-up clinic and to provide professional personnel with direct responsibility for seeing that such patients receive care after discharge from the hospital.

Without emphasis on quality health care insurance, and the measuring of patient health in a systematic fashion, such discoveries might never come to light. In many areas we will improve health care more by emphasizing preventive medicine and follow-up treatment than we will in exotic medical research. Work in all of these areas must go forward, but for too long we have underemphasized preventive care and follow-up treatment. The Commission established in this legislation will do much to further this needed effort.

REASONABLE REFORM

Less than 3 percent of the population in America now have the choice of joining a complete prepaid health care program. This bill makes some very modest attempts to expand that figure by approximately doubling it. This means that well over 90 percent will still not have any choice other than the solo fee-for-service system presently in use. I would prefer to see a broader expansion begin with this legislation, but I understand the necessity of using restraint in the present fiscal climate. We need thousands of health maintenance organizations. This bill will create from 100 to 200, and these facilities should provide a good experimental base for further program developments.

Another needed reform present in this bill will provide priority treatment to previously under-privileged medical areas of the country. The special provisions made to provide care in inner city and rural areas through Health Service Organizations would provide care where it would be impractical to build full-scale HMO's. The area health center program contained in this bill will also aid in the dispersal of health practitioners to areas presently unattractive in the practice of medicine. Isolation and remoteness from professional colleagues often is a barrier preventing doctors from settling in remote areas. This legislation would create area health centers that would provide training, education, and research and thus set aside many of the problems created by conditions outside major metropolitan areas. This is one of the most exciting developments occurring in health care delivery, for it is based in the principle of bringing modern practices to areas presently suffering from the medical services delivery gap that plagues many parts of our country.

This bill does not threaten the respected role of the family physician in individual practice. It simply provides a clear alternative where one is needed. I support the committee bill and urge my colleagues to help this country improve its medical practices by passing this legislation.

Mr. CRANSTON. Mr. President, the bill before us today 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.

Last year, the committee held extensive hearings on the need for health maintenance organizations 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 the development of the bill.

I believe we have succeeded in coming up with a workable proposal to offer support at a realistic level to medical groups needing initial assistance in developing programs which can offer a full range of comprehensive health services to enrollees on a prepaid basis. The experience of prepaid group medical practices in the past in providing care has shown that these programs have been able to provide full health care to enrollees at substantial savings, due to the efficiencies in utilization of staff and facilities, and an emphasis on primary care provided on an ambulatory basis, which are encouraged by prepaid group practices.

Included in the reported bill, I am particularly gratified to note, are several amendments I had offered in committee to the legislation when it was under consideration in the last Congress as S. 3327. These amendments were part of S. 3327 as passed by the Senate last September.

These suggestions, Mr. President, 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;

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 in providing essential continuity of services to enrollees who may travel outside the geographical area of their home-based HMO;

Fifth, include greater specificity as to services included in preventive health services;

Sixth, utilize the skills of clinical pharmacists to the greatest possible extent; and

In addition, S. 14 includes a new amendment I cosponsored with Senator KENNEDY, to authorize the Secretary to contract with health maintenance organizations to provide health services to native American Indians and to domestic migrant and seasonal farmworkers.

EXPANSION OF THE CONSUMER ROLE AND GREATER PARTICIPATION OF ALL HEALTH DISCIPLINES IN QUALITY ASSURANCE REVIEW SYSTEMS

Mr. President, 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 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.

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, Mr. President, 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 ex-

tended 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 of requirements for and to subsequently monitor quality assurance systems for health maintenance 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.

Mr. President, 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, Mr. President, 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

Mr. President, 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.

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

Mr. President, when an individual enrolls in an HMO 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. 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.

GREATER SPECIFICITY AS TO PREVENTIVE HEALTH SERVICES

Mr. President, when legislation to support HMO's was first 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

Mr. President, the effect of adverse drug reactions on the recovery of the patient, and the possibility of long term injury or disability, are extremely serious considerations in the provision of health care. 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, hospital-wide, 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 requirements in S. 14, 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, Mr. President, 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.

COMPREHENSIVE HEALTH SERVICES FOR INDIANS AND MIGRANT WORKERS

I am pleased also that the committee has included in S. 14 as now before us provision for the Secretary of Health, Education, and Welfare to contract with health maintenance organizations for comprehensive health services for native Americans and for domestic migrant and seasonal farm workers eligible for care provided by the Indian Health Service and under the Migrant Health Act, respectively.

I believe it is only equitable, Mr. President, that these two population groups for whom the Nation has a statutory responsibility to provide health care should have the opportunity to participate in the most up to date and effective means of providing care. In many cases, individuals from these severely disadvantaged groups do not reside in areas accessible to the federally funded special programs such as the hospitals of the Indian Health Service or the Migrant Health Clinics.

Several Indian tribes have sought to provide contract care, but because specific statutory authority does not now exist, the Indian Health Service has not been able to offer this option to its beneficiaries.

Mr. President, migrant health clinics also may wish to offer this option and this provision would insure it could be exercised. S. 740, currently before the Senate Labor and Public Welfare Committee extending and amending the Migrant Health Act also includes a provision authorizing the Secretary to pay premiums for a prepaid health care plan eligible for Federal assistance where the clinics or special projects request, and a similar provision was adopted by the Senate last year when S. 3762 was passed and sent on to the House. Unfortunately, no action was taken on extending this legislation in the House last Congress.

CONCLUSION

Mr. President, S. 14 as 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 my 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 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.

Mr. JAVITS. Mr. President, a parliamentary inquiry.

The PRESIDING OFFICER. The Senator from New York will state it.

Mr. JAVITS. Have the yeas and nays been ordered on final passage?

The PRESIDING OFFICER. The yeas and nays have been ordered.

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 legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announced that the Senator from Alabama (Mr. ALLEN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS), is absent because of illness.

I further announce that, if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa (Mr. HUGHES) would each vote "yea".

I further announce that, if present and voting, the Senator from Alabama (Mr. ALLEN), would vote "nay".

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 69, nays 25, as follows:

[No. 139 Leg.]

YEAS—69

Abourezk	Hart	Muskie
Aiken	Hartke	Nelson
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bentsen	Hathaway	Pearson
Bible	Hollings	Pell
Biden	Huddleston	Percy
Brooke	Humphrey	Randolph
Burdick	Inouye	Ribicoff
Byrd, Robert C.	Jackson	Roth
Cannon	Javits	Saxbe
Case	Kennedy	Schweiker
Chiles	Magnuson	Scott, Pa.
Church	Mansfield	Sparkman
Clark	Mathias	Stafford
Cook	McClellan	Stevens
Cranston	McGee	Stevenson
Domenici	McGovern	Symington
Eagleton	McIntyre	Taft
Ervin	Metcalf	Tunney
Fong	Mondale	Weicker
Fulbright	Montoya	Williams
Griffin	Moss	Young

NAYS—25

Baker	Curtis	Johnston
Bartlett	Dole	Long
Bellmon	Dominick	McClure
Bennett	Eastland	Nunn
Brock	Fannin	Proxmire
Buckley	Goldwater	Talmadge
Byrd, Harry F., Jr.	Gurney	Thurmond
Cotton	Helms	Tower
	Hruska	

NOT VOTING—6

Allen	Hansen	Scott, Va.
Gravel	Hughes	Stennis

So the bill (S. 14) was passed, as follows:

S. 14

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 1973".

SEC. 2. (a) The Congress finds that—

(1) the medical care system is not organized in a manner which encourages the provision of medical care at reasonable costs;

(2) the medical care system is oriented toward providing care once a health need has occurred rather than toward providing health maintenance and preventive health services;

(3) there is a serious maldistribution of medical care resources which has resulted in inadequate access to medical care in both inner city and rural areas.

(4) the establishment of health maintenance organizations, 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;

(6) there exists an excessive variance in the quality of health care and health services.

(b) The purpose of this Act is to assist in remedying these deficiencies through encouraging the establishment and utilization of health maintenance organizations, particularly in medically underserved areas by improving the system for the delivery of health care through encouragement of any support for the planning, development, and initial operation of health maintenance organizations, 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 under (including review and assessment of quality or quantity of such services or determination or 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 XI the following new title:

"TITLE XII—HEALTH MAINTENANCE ORGANIZATIONS AND HEALTH SERVICE ORGANIZATIONS

"PART A—SUPPORT OF HEALTH MAINTENANCE ORGANIZATIONS

"DEFINITIONS

"SEC. 1201. 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 meaintenance organization;

"(E) encourages and actively provides for its enrollees (i) health education services; (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 XIII 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 1249, 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 provisions 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 organization, who are temporarily outside the service area of the health maintenance, in which they are en-

rolled) 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, physician's 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 for 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 any person 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 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 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 1302, in a State and who (A) engage in the coordinated practice of their profession as a group responsibility providing services to health maintenance enrollees; (B) if not employees or retainees of a health maintenance organization, pool their income from practice as members of the group and distribute it among themselves according to a prearranged salary, or a drawing account or other plan; (C) jointly use or share substantial portions of medical and other records and 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, physician's 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. 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 on the basis of an aggregate fixed sum or on a per capita basis.

"(4) The term 'enrollee' when used in connection with a health maintenance organization, 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, 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 (B) equipping new buildings and existing buildings, whether or not acquired, expanded, remodeled, or altered with assistance under this title.

"(7) 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.

"(8) 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 actuarially determined average.

"GRANTS FOR PLANNING AND FEASIBILITY STUDIES

"SEC. 1202. (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 $10,000,000 for the fiscal year ending June 30, 1974, $15,000,000 for the fiscal year ending June 30, 1975, and $20,000,000 for the fiscal year ending June 30, 1976.

"GRANTS FOR INITIAL DEVELOPMENT COSTS

"SEC. 1203. (a) The Secretary may make grants, subject to the general provisions of this title, to any public or private nonprofit agencies, organization, 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 enrollment shall be persons from medically underserved areas.

"(d) There are authorized to be appropriated to carry out the provisions of this section $15,000,000 for the fiscal year ending June 30, 1974, $25,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976.

"CONSTRUCTION

"SEC. 1204. (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 aplicants 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 $15,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $40,000,000 for the fiscal year ending June 30, 1976.

"GRANTS FOR INITIAL COSTS OF OPERATION

"SEC. 1205. (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 $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976.

"CONSTRUCTION LOANS

"SEC. 1206. (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 $10,000,000 for the fiscal year ending June 30, 1974, $20,000,000 for the fiscal year ending June 30, 1975, and $30,000,000 for the fiscal year ending June 30, 1976. 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. 1207. (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 $5,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976. 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.

"SPECIAL RURAL AREA GRANTS

"SEC. 1208. (a) The Secretary is authorized to make grants and loans for planning and feasibility studies, initial development costs, construction, and initial costs of operation to health maintenance organizations or nonprofit entities intending to become health maintenance organizations, in non-metropolitan areas.

"(b) There are authorized to be appropriated to carry out the purposes of this section $20,000,000 for the fiscal year ending June 30, 1974, $30,000,000 for the fiscal year ending June 30, 1975, and $50,000,000 for the fiscal year ending June 30, 1976.

"PART B—GENERAL PROVISIONS

"GRANTS AND LOANS

"SEC. 1240. (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 1241. 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 INTEREST SUBSIDIES

"SEC. 1241. (a) In order to assist private health maintenance organizations to carry out construction projects for ambulatory care facilities and transportation services and communication services to be used by it for the provision of health services to its enrollees, to meet their initial development costs (for not more than three years) or to meet their cost of operation (for not more than three years), as well as to subsidize the difference between income and operating expenditures, the Secretary during the period beginning January 1, 1974, and ending with the close of June 30, 1976, 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 organization, 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, 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 interest 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 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 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 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. 1242. (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, 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 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 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. As used in this subsection the term 'financial responsibility' means the demonstrated capability to adequately carry out the purposes of the project for which the original assistance was made.

"(d)(1) An application for a grant, 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 he 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 1302.

"(g)(1) The Secretary may not approve an application submitted under section 1203, 1204, 1205, 1206, or 1207, unless the section 314(b) areawide health planning agency whose section 314(b) plan covers (in whole or in part) the area to be served by the health maintenance organization for which such application is submitted, or if there is no such agency, the section 314(a) State health planning agency whose section 314 (a) plan covers (in whole or in part) such area, has, in accordance with regulations of the Secretary, been provided an opportunity to review the application and to submit to the Secretary for his consideration its recommendations respecting approval of the application. If under applicable State law such an application may not be submitted without the approval of the section 314(b) areawide health planning agency or the section 314(a) State health planning agency, the Secretary may not approve such an application unless the required approval has been obtained.

"(2) The Secretary shall by regulation establish standards and procedures for section 314(b) areawide health planning agencies and section 314(a) State health planning agencies to follow in reviewing and commenting on applications for assistance for health maintenance organizations, and other applicants for assistance under this Act.

"(h) If in any fiscal year there are insufficient funds available for funding of all approved applications for assistance under section 1202, 1203 or 1204 of this title the Secretary shall, subject to the priorities in sections 1202(b), 1203(c), and 1204(c), give priority to those applicants which he determines are the most likely to be economically viable.

"EFFECT ON STATE LAW

"SEC. 1243. (a) Notwithstanding any provisions of State law which—

"(1) require approval of a health maintenance organization, by a medical society;

"(2) require that physicians constitute all or a majority of the governing body of a health maintenance 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 determined by the Secretary, to be incompatible with this title,

a health maintenance organization 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. 1244. (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 the administrative costs allowed by the Commission, incurred in complying with the requirements of the Commission. 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 1302.

"(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, 1974; $50,000,000 for the fiscal year ending June 30, 1975; and $75,000,000 for the fiscal year ending June 30, 1976.

"CAPITATION GRANTS TO ENABLE HEALTH MAINTENANCE ORGANIZATIONS TO SERVE ALL PERSONS

"SEC. 1245. (a)(1) The Secretary shall make annual grants to health maintenance 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 premium and the premium for membership enrollment in such health maintenance organization, for each such person enrolled. A health maintenance organization shall be eligible for grants under this subsection only during the first three years of its operation.

"(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 organization for the next preceding year.

"(4) Notwithstanding any other provisions of this Act the Secretary shall allocate on a pro rata basis not less than 7.5 per centum of the sum of the funds appropriated for each fiscal year pursuant to part A of title XII of this Act to carry out the purposes of this subsection.

"(b)(1) Where a health maintenance 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. A health maintenance organization shall be eligible for grants under this subsection only during the first three years of its operation.

"(2) Notwithstanding any other provisions of this Act the Secretary shall allocate on a pro rata basis not less than 7.5 per centum of the sum of the funds appropriated for each fiscal year pursuant to part A of title XII of this Act to carry out the purposes of this subsection.

"PAYMENTS OF GRANTS

"SEC. 1246. 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. 1247. (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 XI and XII of this Act shall be used to initially develop, construct, and initially operate a health maintenance organization, directly or indirectly through arrangements with others, health care to a defined population on a prepaid basis.

"LABOR STANDARDS

"SEC. 1248. 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. 1249. In a case where all appropriated funds are expended under section 1245(b)(2) and where a health maintenance 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 organization may receive more than one such waiver.

"ACCESS TO RECORDS

"SEC. 1250. (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.

"COMPREHENSIVE SERVICES PHASE-IN

"SEC. 1251. The Secretary may grant a waiver to an applicant for assistance under this title, with respect to the provision of a specific service, required to be provided as a component of comprehensive health services where he determines that—

"(1) such service cannot be provided by the applicant solely because the required health manpower or equipment to provide such service is not available; and

"(2) the applicant has a feasible plan to provide such service at the earliest possible date, such date not to exceed three years from the date assistance under this title is first granted to such applicant.

"COMPREHENSIVE HEALTH SERVICES FOR INDIANS AND MIGRANT WORKERS

"SEC. 1252. The Secretary is authorized to contract with health maintenance organizations to provide health services to individuals who are eligible for such services from the Indian Health Service or under section 310 of this Act.

"PART C—SPECIAL PROJECT GRANTS TO FACILITATE HEALTH SERVICES IN NONMETROPOLITAN AREAS

"SEC. 1260. (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 purposes of this section such sums as may be necessary.

TITLE II—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

SHORT TITLE

SEC. 201. This title shall be known as the "Commission on Quality Health Care Assurance Act of 1973".

STATEMENT OF PURPOSE

SEC. 202. 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. 203. The Public Health Service Act, as amended by this Act, is further amended by inserting after title XII the following new title:

"TITLE XIII—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"PART A—COMMISSION ON QUALITY HEALTH CARE ASSURANCE

"ESTABLISHMENT OF COMMISSION

"SEC. 1301. (a) There is hereby established in the Department of Health, Education, and Welfare 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. 1302. (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 subject to the provisions of this Act and the Mental Retardation Facilities and Commu-

nity 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 and other providers of health care;

"(E) develop procedures for such systems to report through the policymaking body of the health maintenance organization 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) analyze the need for standardization of medical record information and facilitate the development of a system of standard medical reference mechanisms;

"(13) prescribe a schedule of reasonable contingent fees for attorneys representing claimants in proceedings under section 1309; and

"(14) 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. 1303. (a) In order to carry out the provisions of this Act the Commission is authorized to—

"(1) appoint and fix for 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 the Commission with respect to its 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 paragrph (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 by GS–18 under section 532 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. 1304. (a) Section 5314 of title 5, United States Code, is amended by adding at the end thereof the following new paragraph:

"'(60) 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:

"'(98) Members, Commission on Quality Health Care Assurance (10).

"'(99) General Counsel, Commission on Quality Health Care Assurance.'

"APPLICABILITY OF COMMISSION REQUIREMENTS

SEC. 1305. (a) Except as provided in subsection (b) the requirements established by the Commission pursuant to section 1302 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 1302 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. 1306. (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 gov-

erned 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. 1307. (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.

"(c) 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. 1308. (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 1302. 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. 1309. (a) A provider of health care that possesses a valid certificate of compliance issued under section 1302 may enter into a program for the equitable and expenditious 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 these 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 by the Commission, shall be fined not more than $1,000 or imprisoned for not more than one year, or both.

"PUBLICATION OF CRITERIA AND NORMS

"SEC. 1310. (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 notice of 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 criterion 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. 1311. (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 1302 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 1302, 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 1302 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 this 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.

"(c) 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 1302, 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, criteria, 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. 1312. (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 any enforcement proceeding pursuant to this title. The proceeding shall be as provided by rule 65 of the Federal Rules of 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 in the United States District Court 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. 1313. For the purposes of this title, the term—

"(1) 'input measure' means assessment based on the qualifications of personnel, facilities, and equipment required 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 contacts, 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) '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. 1314. There are authorized to be appropriated for the carrying out of the provisions of this part $15,000,000 for the fiscal year ending June 30, 1974; $40,000,000 for the fiscal year ending June 30, 1975; and $70,000,000 for the fiscal year ending June 30, 1976."

TECHNICAL AMENDMENTS TO THE PUBLIC HEALTH SERVICE ACT

SEC. 204. (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 XII (as in effect prior to the date of enactment of this Act) as title XIV and by renumbering sections 1101 through 1111 (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. KENNEDY. Mr. President, I ask unanimous consent that the Secretary of the Senate be authorized to make tech-

nical and conforming changes in the engrossment of the bill, S. 14.

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

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HUMPHREY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER OF BUSINESS

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? I beg the Senator's pardon for interrupting him, but I think we should have order in the Senate.

The PRESIDING OFFICER. The Senate will please be in order. The Senators wishing to conduct conversations will please retire to the cloakroom.

The Senator may proceed.

TRIBUTE TO MEMBERS OF THE ARMED FORCES WHO ARE MISSING IN ACTION IN INDOCHINA

Mr. BROOKE. Mr. President, in less than 2 weeks Americans will pause to pay tribute to the sacrifices of millions of men and women who have served our Nation in times of war.

This Memorial Day, as we commemorate the courage and devotion of those who made the ultimate sacrifice for us, we cannot forget the enduring anguish of thousands of Americans who do not know the fate of loved ones listed as missing in action in Indochina. The pain of uncertainty is exceptionally hard to bear. A wife does not know if she is a widow—a father and mother do not know if they have a son—Children ask "Where's Daddy?", and the only answer is hope and prayer. The American people share these hopes and prayers.

We were relieved when our forces returned from Indochina. We rejoiced when our prisoners of war came home. But our joy remains incomplete. The tragedy of Indochina lingers in many ways: In the skies over Cambodia and in the frequent cease-fire violations in Vietnam and Laos, and in the homes of the families and friends of 1,288 members of our Armed Forces missing in action throughout Indochina.

As we seek to halt the continuing hostilities in Indochina, we must pursue as relentlessly our efforts to resolve the status of our MIA's. We have in Thailand the Joint Casualty Resolution Center, which is poised to undertake the challenging assignment of determining the fate of our MIA's. Last month in Saigon, I met with the commanding officer of the JCRC, Brig. Gen. Robert Kingston, of Brookline, Mass. General Kingston outlined the immediate and comprehensive capabilities of the JCRC, but he underscored the crucial problem of our casualty resolution effort. Our teams cannot now operate in the areas of South Vietnam and Laos presently under control of the Provisional Revolutionary Government—PRG—and the Pathet Lao, respectively. While in Vientiane, I spoke with a representative of the Pathet Lao and urged as strongly as possible that the Pathet Lao move promptly to cooperate with U.S. casualty resolution teams in areas under their control. In Saigon, I made similar urgings to representatives of the PRG. In both cases, though I spoke for myself, I said that I was sure my feelings represented the mood of Congress and the American people who share the anguish of the families of our MIA's.

The resolution I offer sets forth the plight of our MIA's and their families, the responsibility and capability of the United States in resolving their status, and the need for cooperation by all parties in the Indochina conflict for such resolution.

Specifically, this measure calls for special remembrance of the MIA's and their families throughout Memorial Day 1973. It suggests that American motorists turn on their headlights on May 28 as a symbol of their remembrance.

I believe this special remembrance is important to remind the families of the MIA's that all Americans share their burden. But more important than remembrance is the need to end the anguish of the MIA's and their families. Section 3 of this resolution would express the sense of the Senate that—

Every effort be made to secure the cooperation of all parties in the Indochina conflict to insure the fullest and most expeditious resolution of the status of members of the U.S. Forces missing in Indochina.

In the Senate today and across the Nation, Memorial Day, let us make clear that we all share the anxiety, hopes, and prayers of our MIA's and their families, as well as the determination to promptly and relentlessly determine the fate of these brave men.

I submit the resolution, and ask unanimous consent for its immediate consideration.

The PRESIDING OFFICER. The clerk will state the resolution by title.

Mr. ROBERT C. BYRD. Mr. President, may we have order in the Senate? Will the Chair ask Senators to take their seats and attaches to take seats?

The PRESIDING OFFICER. Will the Senate please be in order? The Senate is not in order. Will Senators please take their seats?

The clerk will state the resolution.

The legislative clerk read by title, as follows:

A resolution to pay tribute to members of the Armed Forces who are missing in Indochina.

Mr. BROOKE. The following Senators are cosponsoring the resolutions:

S. RES. 115

Mr. Brooke (for himself, Mr. Abourezk, Mr. Baker, Mr. Bartlett, Mr. Bayh, Mr. Beall, Mr. Bennett, Mr. Bible, Mr. Buckley, Mr. Burdick, Mr. Clark, Mr. Cotton, Mr. Cranston, Mr. Curtis, Mr. Dole, Mr. Dominick, Mr. Eastland, Mr. Gravel, Mr. Griffin, Mr. Hart, Mr. Haskell, Mr. Inouye, Mr. Jackson, Mr. Mansfield, Mr. Mathias, Mr. McGee, Mr. McIntyre, Mr. Mondale, Mr. Moss, Mr. Randolph, Mr. Scott of Pennsylvania, Mr. Scott of Virginia, Mr. Stafford, Mr. Stevens, Mr. Taft, Mr. Thurmond, Mr. Tower, Mr. Williams, Mr. Young, Mr. Kennedy, and Mr. Humphrey.

Mr. Goldwater, Mr. Case, Mr. Bellmon, Mr. Percy, Mr. Saxbe, Mr. Pearson, Mr. Brock, Mr. Fannin, Mr. Fong, Mr. McClure, Mr. Helms, Mr. Hartke, Mr. Hatfield, Mr. Pastore, Mr. Gurney, Mr. Dominici, Mr. Ribicoff, Mr. Cook, Mr. Aiken, Mr. Hruska, Mr. Roth, Mr. Weicker, Mr. Javits, Mr. Hansen, and Mr. Magnuson.)

The PRESIDING OFFICER. Is there objection to the immediate consideration of the resolution?

There being no objection, the Senate proceeded to consider the resolution.

Mr. BROOKE. Mr. President, I move the adoption of the resolution.

The PRESIDING OFFICER. The question is on agreeing to the resolution.

The resolution was agreed to.

The PRESIDING OFFICER. Without objection, preamble to the resolution is agreed to.

The resolution (S. Res. 115), with its preamble, reads as follows:

S. RES. 115

Resolution: To pay tribute to members of the armed forces who are missing in Action in Indochina

Whereas, the United States recognizes its responsibilities for the 1,288 members of the Armed Forces who are currently listed as missing in action in Indochina;

Whereas, the United States is fully prepared to undertake the most comprehensive casualty resolution efforts as soon as all parties to the Indochina conflict are willing to cooperate in such efforts;

Whereas, the families of missing members of the Armed Forces are entitled to an accounting of their fate;

Whereas, the last Monday of May of each year was designated as Memorial Day, a special day in memory of those who lost their lives in war and as a day of prayer for permanent peace: Now, therefore, be it

Resolved, That on Memorial Day, May 28, 1973, special remembrance be given by a grateful people to the 1,288 members of the Armed Forces of the United States currently listed as missing in action in Indochina.

SEC. 2. All American motorists are encouraged to turn on their automobile lights throughout Memorial Day, May 28, 1973, as a symbol of this remembrance.

SEC. 3. Every effort be made to secure the cooperation of all parties in the Indochina conflict to insure the fullest and most expeditious resolution of the status of members of the U. S Armed Forces missing in Indochina.

Mr. BROOKE. Mr. President, I move to reconsider the vote by which the resolution was agreed to.

Mr. TAFT. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

NATIONAL INSTITUTE OF HEALTH CARE DELIVERY ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 122, S. 723; that it be laid before the Senate and made the pending business.

The PRESIDING OFFICER. The clerk will state the bill by title.

The LEGISLATIVE CLERK. A bill (S. 723) to establish a National Institute of

Health Care Delivery, and for other purposes.

The PRESIDING OFFICER. Is there objection to the request of the Senator from Montana?

There being no objection, the Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with amendments on page 3, line 13, after the word "title", strike out "X" and insert "XI"; in line 14, after the word "Title", strike out "XI" and insert "XII"; at the beginning of line 17, change the section number from "1101" to "1201"; on page 4, at the beginning of line 2, change the section number from "1102" to "1202"; at the beginning of line 24, change the section number from "1103" to "1203"; on page 9, at the beginning of line 9, change the section number from "1104" to "1204"; on page 12, at the beginning of line 24, change the section number from "1104" to "1205"; on page 13, at the beginning of line 1, strike out "(95)" and insert "(98)"; at the beginning of line 6, strike out "(131)" and insert "(132)"; at the beginning of line 9, change the section number from "1106" to "1206"; at the beginning of line 21, change the section number from "1107" to "1207"; on page 14, at the beginning of line 7, change the section number from "1108" to "1208"; at the beginning of line 24, change the section number from "1109" to "1209"; on page 15, line 12, after the word "be", insert "(1)"; on page 17, line 7, after the word "section", strike out "1113" and insert "1213"; in line 20, after the word "section", strike out "1110" and insert "1210"; on page 18, at the beginning of line 2, change the section number from "1110" to "1210"; at the beginning of line 22, change the section number from "1111" to "1211"; on page 19, at the beginning of line 10, change the section number from "1112" to "1212"; at the beginning of line 12, strike out "1113" and insert "1213"; in the same line, after the word "appropriated", strike out "$125,000,000" and insert "$80,000,000"; at the beginning of line 14, strike out "1973" and insert "1974"; in the same line, after the amendment just stated, strike out "$150,000,000" and insert "$125,000,000"; in line 15, after "June 30,", strike out "1974" and insert "1975"; in the same line, after the word "and", strike out "$200,000,000" and insert "$150,000,000"; in line 16, after "June 30,", strike out "1975" and insert "1976"; at the beginning of line 20, change the section number from "1113" to "1213"; on page 21, line 21, after the word "appropriated", strike out "$30,000,000" and insert "$20,000,000"; at the beginning of line 23, strike out "1973" and insert "1974"; in the same line, after the amendment just stated, strike out "$35,000,000" and insert "$25,000,000"; in line 24, after "June 30,", strike out "1974" and insert "1975"; in the same line, after the word "and", strike out "$40,000,000" and insert "$30,000,000"; on page 22, line 1, after "June 30,", strike out "1975" and insert "1976"; and, at the beginning of line 22, change the section number from "1114" to "1214".

ORDER TO PROCEED TO CONSIDERATION OF S. 504, EMERGENCY MEDICAL SERVICES SYSTEMS DEVELOPMENT ACT OF 1973

Mr. MANSFIELD. Mr. President, I ask unanimous consent that on the disposition of the pending business, the Senate turn to the consideration of Calendar No. 126, S. 504; that it at that time be laid before the Senate and made the pending business.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

NATIONAL INSTITUTE OF HEALTH CARE DELIVERY ACT OF 1973

The Senate continued with the consideration of the bill (S. 723) to establish a National Institute of Health Care delivery, and for other purposes.

Mr. KENNEDY. Mr. President, let me say at the outset that I want to commend the distinguished Senator from Maryland (Mr. BEALL), who has provided great leadership in this particular area and has pressed this idea and concept forward with virtually unanimous support of the members of the Health Subcommittee. I think it is an extremely imaginative and creative proposal. I know the Senator from Maryland will have some extended remarks on this particular proposal, but let me say at the outset it is one which I endorse and support, and I am very hopeful the Senate will endorse it as well.

After the Senator from Maryland makes a statement on it, I think we may review with him some of the particular authorization levels that have been outlined in the legislation. We have just passed the Health Maintenance Organization legislation, with a total authorization of some $800 million. Last year we passed essentially the same piece of legislation with a figure of about $5 billion, and that perhaps measures the tempo of the times. However, I think as we address ourselves to the particular needs, we will perhaps want to review these figures to make sure that we meet our particular responsibilities.

Let me just say very briefly that we spend in excess of $2 billion in biomedical research. Our biomedical researchers have won some 44 Nobel prizes. No country in the world can possibly even begin to match the supremacy of the United States in the area of biomedical research.

I think to a great extent that has been because of the development of the National Institutes of Health and the strong support the National Institutes of Health have been given over recent years.

This particular bill seeks to do in the area of health delivery what has been accomplished in the biomedical research area. We are expending at the present time approximately $60 million in an experimental way for the delivery of health care.

I think the bill makes a great deal of sense. We have seen the extraordinary care that is given in certain parts of the country and the grossly inadequate care given in other parts of the country. Now we are attempting to further this effort and have the Senate consider health care delivery.

I think it is appropriate that at this time we hear from the distinguished Senator from Maryland (Mr. BEALL), who has worked hard in this area and has supported the concept with great strength in the past.

Mr. President, I believe that we need a National Institute of Health Care Delivery, but I also believe that its activities must be carried out in the closest cooperation with the proposed functions of the Commission on Quality Health Care assurance authorized by the HMO bill which has just passed the Senate. It is essential in my opinion for these two efforts to be implemented in a compatible manner.

Mr. President, I would now like to briefly describe the functions of the National Institute of Health Care Delivery.

The Institute's mission will be to carry out an accelerated multidisciplinary research and development effort to improve the organization and delivery in the Nation.

It also authorizes up to eight regional centers and two national special emphasis centers, a health care technology center, and a health care management center.

A 21-member National Advisory Council on Health Care Delivery will advise the Institute of the development, priorities, and execution of its 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 medical research.

On the other hand, comparatively small investments have been made in research and developments to improve the organization and delivery of health care. Appropriations for fiscal year 1973 contrast our investment in medical research as compared to health care delivery research. The total outlays for fiscal 1973 for the National Institutes of Health, the Federal Government's chief biomedical research organization, is estimated to be $2.009 billion, while the estimated budget for the National Center for Health Services Research and Development for the same year is $64.4 million. By citing this contrast, I am not suggesting or implying that spending on medical research is out of line. To the contrary, the Congress has supported an acceleration of the Nation's research effort.

The American people are aware of and grateful for the achievements of medical science, but they are also aware of this "gap" which is a source of public dissatisfaction. Our citizens marvel at the miracle-like heart transplants that are taking place, but their plea to the health care community is to make available, accessible, and affordable the achievements, methods, and procedures developed by medical science over the last quarter to to one-half century.

To develop the means and methods to deliver the results of medical research and knowhow to our citizens, wherever they live and at a price they can afford,

is the principal task facing our Nation and the health community. This is the challenge that will be the work of the National Institute of Health Care Delivery.

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, and the regional and special emphasis centers.

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 models on which to base the establishment of a complex, large, and multifaceted research and development effort. Second, there is in the Nation essentially no body of experienced managers to initially head up an effort of the magnitude my amendment ultimately envisions. Third, there is in the Nation a critical shortage of qualified professional personnel in respect to the broad-based function 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 services, et cetera, which has specialized in the conduct of the kinds of efforts which are intended to be carried out by the institute.

I believe that, if the efforts of the National Institute of 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 lead 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 analagous to the clinical center of the NIH.

S. 14, Mr. President, authorizes the establishment of the Commission on Quality Health Care Assurance. The need for a close and cooperative working relationship between the Commission and the National Institute of Health Care Delivery is essential.

Mr. President, I want to congratulate my friend and colleague on the committee, the junior Senator from Maryland (Mr. BEALL), who was the author of this legislation in the 92d Congress. His bill, S. 3329, which was introduced in the 92d Congress on the same day that I introduced the HMO bill, addresses a national need. And I want to take this opportunity to commend him for that and also to point out as chairman of the Senate Health Subcommittee, how helpful he has been to the subcommittee in this respect.

Mr. President, given the major reductions, the Senate has made in the authorizations in the HMO bill, I believe it is essential that we appropriately reduce the authorizations in this bill. Accordingly my amendment would propose to reduce the overall authority in S. 723 from $430 million to $390 million. I believe this is a prudent amendment and I hope it will be adopted by the Senate.

Mr. BEALL. Mr. President, at the outset, I thank the distinguished chairman of the Subcommittee on Health, the distinguished Senator from Massachusetts (Mr. KENNEDY), for his initial remarks, and to thank and commend him for the leadership he has shown in the total area of providing an opportunity for better health care for the people of our country. I am particularly grateful for the support he has given to this particular piece of proposed legislation, calling for a National Institute of Health.

The measure was cosponsored by Senators PETER DOMINICK, WILLIAM HATHAWAY, ERNEST HOLLINGS, JACOB JAVITS, JOHN PASTORE, TED STEVENS, and MILTON YOUNG. I am grateful for their support and assistance on this bill. This measure has been reported to the full Senate with the unanimous recommendation of the full Labor and Public Welfare Committee.

S. 723 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 conduct a multidisciplinary, research, and development effort to improve the delivery and organization of health care in this Nation. In addition, S. 723 authorizes up to eight regional centers and two special emphasis centers, the Health Care Technology Center and the Health Care Management Center. The total authorized funding for the Institute, the regional centers, and the Special Emphasis Centers, will be $100 million for the first year, $150 million for the second year, and $180 million for the third year, for a total authorization of $430 million over a 3-year period.

I would point out, however, that the authorization for the Institute and the centers does not represent all new funds since the National Center for Health Services Research and Development is transferred to the new Institute, and the total outlays for fiscal year 1974 for this present Center is estimated at $64.4 million.

BACKGROUND AND NEED

Mr. President, I first made this proposal for a National Institute of Health Care Delivery in a June 25, 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 the Johns Hopkins University and the University of Maryland. Their faculties' interest and observations contributed significantly to the final bill. Before drafting this proposal, I also examined the administrative and organizational structure of the various Federal research and development efforts, as well as some private organizations.

I introduced this proposal in the last Congress as S. 3329 and the legislation was considered by the Labor and Public Welfare Committee in connection with S. 3327, the Health Maintenance Organization Development Act of 1972. The Labor and Public Welfare Committee last year incorporated the Institute as title V of the HMO legislation. The health maintenance organization legislation, including my proposal for a National Institute of Health Care Delivery, was subsequently considered and passed by the Senate on September 20, 1972, by a vote of 60 to 14. No opposition to the Institute was voiced during the Senate debate on the health maintenance organization legislation.

Senator KENNEDY reintroduced the HMO legislation this year as S. 14 in the identical form, which included the National Institute of Health Care Delivery, as passed by the 92d Congress. I also reintroduced my proposal for a National Institute of Health Care Delivery as a separate bill, S. 723. The Labor and Public Welfare Committee, in order to give this proposal the visibility and national attention it deserves, decided to report this measure as separate 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. For example, the fiscal year 1974 total outlays for the National Institutes of Health, the Federal Government's chief biomedical research organization, is estimated to be $2.009 billion, while the estimated budget for the National Center for Health Services Research and Development is $64.4 million. I want to make it clear that the cit-

ing of this contrast does not suggest or imply that we are spending too much for biomedical research. For the record of this Senator, Congress, and the administration clearly reveals strong support for an accelerated attack against the Nos. 1 and 2 diseases of our citizens, heart and cancer. Biomedical research and health care delivery are inextricable pursuits. For as the famous 19th century chemist, Louis Pasteur, observed:

To him who devoted his life to science, nothing can give more happiness than increasing the number of discoveries, but his cup of joy is full when the results of his studies immediately find practical applications.

There are not two sciences. There is only science and the application of science and these two activities are linked as the fruit is to the tree.

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 science 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 miraclelike 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 science 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, 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 is 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 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 importance of the multidisciplinary approach was underscored in a 1972 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 non-physician'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 tradeoff 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 crisis 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 leg-

islative 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 an urgent need to develop analytical capabilities to cope with the large, complex and longrun 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, also appointed by the President, 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, to the Health Care Management Center, and the Health Care Technology 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 read these functions as follows:

(1) The existing health care system, emphasizing means and methods to improve such systems 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. 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. Similiarly, 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 featured 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 competing 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 1972 General Accounting Office study pointed 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 7 centers during fiscal year 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 will also encourage the 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 areas 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 aptly called the "hidden crisis in health care." 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 former Secretary of Defense Laird, during the war was 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 a pioneer in the emergency health field with one of the Nation's most sophisticated trauma centers, which was recently named the Institute for Emergency Medicine. The State has announced plans to develop a statewide emergency medical system. I work closely with the State and they have received a major grant to develop a communications system. They have now four helicopters in operation and need three or four more. When such a system is operational, the able director of the institute, Dr. R. Adams Cowley, predicts that accident deaths in Maryland could be cut in one-half in 2 years.

TRAINING AND TECHNICAL ASSISTANCE

The Institute will develop methods and support 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 competitive 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 make it imperative that the Institute capitalize on the experience of NIH and others and provide the support

necessary to produce first-rate professionals in this field.

The Institute may also consider the scholarship approach for postdoctoral work as this might encourage the flow of skilled individuals to create a cadre of professionals 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.

It cannot be emphasized too much the importance of this training function 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.

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 efforts in evaluation 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 was 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; 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 it 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 of the Institute's research and development efforts 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 under the measure would also be required to submit, as an appendix to the Director's report which I previously discussed, 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, the National Aeronautics and Space Administration, the National Science Foundation, and the National Institute of Education, which was enacted into law last 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 1 year to the next. This is vital and will permit the Institute to provide stable funding for multiyear projects which are important in research and development.

The new Institute would be given joint funding 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. The frustrating experience that Johns Hopkins University had in my State when they were moving to establish a prepaid practice program in Baltimore City, illustrates the need for this kind of authority. To put their program together, Johns Hopkins had to deal with 13 different agencies, each with different standards and requirements. Program fragmentation and different, inconsistent rules and regulations almost made the program come apart before it was implemented.

The health programs of the Federal Government are divided in nine departments and at least one dozen agencies. There are a number of provisions in my bill aimed at this problem. First, there is a specific provision directing the establishment within the Institute of offices and procedures necessary to provide for the greatest possible coordination of research and development under the act with activities conducted by other Federal agencies and public and private agencies.

Second, the National Advisory Council has a specific assignment to examine and coordinate health care delivery efforts of the Department of Health, Education, and Welfare and other Federal agencies so as to avoid duplication.

Third, the President is granted for a 2-year period, the authority to transfer to the Institute any program or personnel within the Department of Health, Education, and Welfare when he feels such action is desirable.

DISSEMINATING RESULTS

Mr. President, it is important that the results of the Institute and its centers be disseminated in a timely manner to the health care system and to those Federal agencies responsible for health services. Significant results are of little

value if they remain on some shelf or in some Federal storage room. Health is a field which the president of Blue Cross recently characterized as "restlessly in transition." Health is a field in which change may occur rapidly and I believe it is imperative that health researchers and administrators be kept up to date with respect to current development.

To assure that the significant findings are disseminated to the health system and to the public, there would be created within the Institute a Health Care Delivery Information Service. This office would provide, or arrange for, the provisions of indexing, abstracting, translating, or other services leading to a more effective dissemination of health care delivery information and undertake programs to develop new or improved methods for making such information available.

A variety of media could be used by the Health Care Information Services, including a computerized storage and retrieval system, microfiches and suitable periodicals or other publications. The office might also publish or support a monthly journal which would abstract both national and international literature bearing on health services. In addition, it would be useful for the office to establish or to encourage the establishment of a high quality, timely publication service for research reports, monographs, state of the art papers, and other information in the field.

In addition to making certain that the timely information reaches individuals in the health system, the office is expected to help prevent needless duplication of research efforts and the waste of scarce Federal resources.

REGIONAL AND SPECIAL EMPHASIS CENTERS

S. 723 also authorizes a maximum of 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; and information handling problems.

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. I 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 were 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, 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, a 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 1960's, 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.

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 invididuals 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 Corporation 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 eve disorders. Better than 80 percent of the subjects have found the system helpful in reading and writing.

Work is now underway 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 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 served in 1971 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. Last 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.

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 undertsanding 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, as is evidenced by the letter I received from an 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 program including a summary of significant research and development findings.

The regional and special emphasis centers have a separate authorization of $20 million for the initial fiscal year and a total of $75 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.

CONCLUSION

Mr. President, the health care enterprise in the country is our second largest industry today with spending totaling $83.4 billion, or 7.6 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. Last year I made reference to an Associated Press story which appeared around the time that the institute proposal passed the Senate. This story headlined that the hospitals per day cost 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. I said then and I repeat today—

> Think about it, over a 2-year period almost a 30 percent increase in hospital costs occured. This obviously cannot continue.

The public is also concerned about the manpower and facility shortages as well as their maldistribution and the last Congress passed legislation in response to this 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 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 enterprise, its importance to the American public, and the growing Federal investment, make it imperative, in my judgment, that research and development in health care delivery must 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 ask unanimous consent that this editorial be printed at the conclusion of my remarks.

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

(See exhibit 1.)

Mr. BEALL. Mr. President, 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.

The new National Institute of Health Care Delivery recognizes the need for a multidisciplinary attack, represents such a commitment, and provides 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.

In conclusion, once again I thank the distinguished Chairman of the Health Subcommittee, the Senator from Massachusetts (Mr. KENNEDY), for his work and cooperation in bringing this legislation to the floor.

EXHIBIT 1

THE TOPSY-TURVY WORLD OF HEALTH CARE DELIVERY

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 of 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.—WILLIAM BEVAN

* J. GLENN BEALL, JR., "A proposed institute health statistics give cause for concern of health-care delivery," CONGRESSIONAL RECORD, vol. 117, pt. 15, pp. 19852–29854.

Mr. BEALL. 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. BEALL. 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. BEALL. Mr. President, I ask unanimous consent that the committee amendments be agreed to en bloc, and that the bill as thus amended be considered as original text for the purpose of further amendment.

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

Mr. BEALL. 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 assistant legislative clerk read as follows:

On page 19, line 18, insert the following new sentence: "Funds authorized for the fiscal year ending June 30, 1974 shall include all of the funds authorized under section 304 of this Act."

On page 19, line 13, strike "$30,000,000" and insert in lieu "$95,000,000".

On page 19, line 14, strike "$125,000,000" and insert in lieu thereof "$105,000,000".

On page 19, line 15, strike "$150,000,000" and insert in lieu thereof "$115,000,000".

Mr. KENNEDY. Mr. President, the figures which are authorized under the bill of the distinguished Senator from Maryland amount to some $430 million. This amendment would reduce that total of $430 million to some $390 million, which will include some new authorizations as well as those in existing law.

The figures, as indicated in the amendment the Institute would have available some $95 million the first year, $105 million the second, and $115 million the third; and for the development of the various regional and special emphases centers, $20 million the first year, $25 million the second, and the $30 million the third year.

There will be in existence authorization for some $94 million the first year assuming S. 1136 becomes law, which I anticipate in the very near future. We are rounding that off to a $95 million authorization; and so, in this sense, it will mean only approximately $21 million of additional authorization for the first year of the bill over existing law.

I know that this is a considerable downward reduction in the figure originally proposed by the Senator from Maryland. It distresses me, as I am sure it does him, that we are going to have to have this kind of reduction, particularly since I think this is a worthwhile and justifiable investment and investment which would, I think, return to the consumers of his country hundreds of millions of dollars, even billions of dollars, over future years. I think that he has, as I mentioned earlier, put his finger on one of the areas in the health field where there has been a paucity of funding and energy in recent times.

So I offer the amendment with considerable reluctance. I offer it with the recognition of the very serious budget restraints that I think all of us feel we are under, even in this health area.

If the Senator is willing to accept the amendment, I shall certainly make every effort I can to see that we get the funding and that we gradually get some increasing authorizations over the years, because this is a sound program and one which I support and which I enthusiastically urge my colleagues to support.

Mr. BEALL. Mr. President, again I thank the Senator from Massachusetts for his remarks concerning this piece of legislation and with the same reluctance that he proposes the amendment to reduce the funds—and when I say reluctance, I mean that I am willing to accept the amendment.

I recognize the practicalities of the situation but although we would like to have more money available for what we consider to be a laudable purpose, that

of bringing a greater coordination and emphasis into the research and development in the delivery system of health care, I also recognize that we are operating under severe budget constraints and it is necessary that we view these matters realistically and practically.

The amendment offered by the Senator from Massachusetts is a reasonable one and I shall support it.

We should make clear, Mr. President, that the estimated fiscal year 1974 budget is $64 million in this effort. The authorizations then in this measure are reasonable. I believe such an investment will return dividends many times over that amount in the years ahead.

Therefore, Mr. President, I shall support the amendment offered by the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, just before we vote, I want to indicate that part of this concept is the development of the field offices all across the country which can be very important and useful centers for the development of the delivery of health care. Hopefully, they will be developed in the rural communities as well as in the urban areas. We are authorizing some $20 million for that in the first year. That will build up as well, so that I think even though first year authorization is modest, the future authorizations are significant and the thrust and the scope of this legislation, I think, can be extremely significant and important in improving health care generally in the country.

I am glad that the Senator from Maryland will accept the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Massachusetts.

The amendment was agreed to.

Mr. DOLE. Mr. President, national expenditures for health have been increasing rapidly over the past decade. In 1972 Americans spent more than $83 billion on health, and that figure is expected to reach $100 billion or more in 1974. Yet in the State of Kansas, and I am sure the same can be said for many other areas of the country, the problems of maintaining adequate health care still plague a large portion of the population.

As a nation we have exhibited our concern with health matters by investing more than $20 billion on health biomedical research since World War II, and it is estimated that by 1980 one out of every $10 spent by an American will go for health. Yet even with this investment, large segments of the population are still not receiving the health care they need and deserve. The excellent knowledge and capabilities of the health care providers are simply not being delivered to all Americans, especially those in rural areas.

RURAL MEDICAL PROBLEMS

No single cause can or should be cited for these areas of deficient health care delivery, since the reasons for the deficiencies are numerous and complex. In rural America the rapid decrease in farm population has been as big a factor as any in the decreasing level of health care available in these areas. As population density has dwindled, it has become more difficult and less lucrative to maintain necessary health care services. The size of the area served by each physician has been expanded and patients as well as doctors and other medical personnel are now required to travel longer distances to receive and deliver health care.

In western Kansas, numerous small towns are now losing physicians through retirement. Those physicians are not being replaced by a younger generation of doctors. Well-equipped and modern hospitals are being threatened with closure due to the lack of physicians to staff them. More than half of the counties either have no dentists at all or a dentist/patient ratio that exceeds 1 to 3,000. A reliable, adequate level of health care is a necessity for any community, and I feel it is time for the Federal Government to address itself in a comprehensive way to the problems of health care delivery and the challenge of bringing the latest medical expertise and knowledge to every American.

Yet this does not mean that the Federal Government should dominate the health care effort, nor do I feel that any drastic revision of the health care system is in order. Rather, Federal involvement should complement the private system and working through it help encourage the delivery of health care services to areas currently not served, while also concentrating effort and resources in areas and on issues of national priority. What is needed is not a new system, but rather a new sense of cooperation between all levels of government and the private sector, working toward the goal of establishing a system of health care delivery which will insure quality health care to all Americans.

It is generally acknowledged that Federal Government effort in the area of health has not been totally successful, but admittedly many of the programs have had a tremendous impact on health care across the country. The Kansas regional program has been one of the most efficient and effective efforts to improve health care delivery in Kansas.

Its programs have helped meet the health manpower needs of the State and improved health care delivery to the less populated and doctorless counties of the State through the use of nurse clinicians. Other programs have worked to aid physicians in their efforts to meet the tremendous demands and responsibilities which result from being the only doctor in a western Kansas county.

I applaud the accomplishments of the program and feel its emphasis on health care delivery has brought more health improvements to Kansas per Federal dollar expended than any other Federal health program. Its success and efficiency are due in large part to the fact that it works through the existing system providing resources and technical assistance to help the system itself meet its increasing demands. Numerous solutions are developed, each specifically tailored to a particular community's or area's needs rather than trying to force a broad, comprehensive program on the Nation as a whole with massive Federal expenditures used to entice participation.

S. 723, the National Institute of Health Care Delivery Act of 1973, employs an approach similar to that of the regional medical programs. The national institute is provided with a broad legislative mandate to examine all aspects of the health care system and the ways and means of improving that system, as well as devising and testing alternative systems. Grants will be made to States, political subdivisions, universities, hospitals, and other parties active in the health care field to enable them to conduct research and develop solutions to their specific health care problem.

WORTHWHILE APPROACH

S. 723 provides for the establishment of a National Institute of Health Care Delivery to carry out a multidisciplinary research and development program to improve health care delivery. The institute is designed to become the principal Government agency for the improvement of health care delivery in the United States. In addition to the national institute, the bill also proposes the establishment of as many as eight regional centers to study the health care delivery problems which are peculiar to the various areas of the country. I would hope that one of these centers might be established in Kansas to study the special problem of health care delivery in the less densely populated areas of the Great Plains. Such a step would be entirely appropriate in view of the work already done by the Kansas rural medical program, and the KRMP's efforts could serve as a well-established base for expanding and improving the initiatives in this area.

The National Institute of Health Care Delivery is intended to improve the effectiveness, efficiency, and quality of health care in the United States through the initiation and support of experimentation in special areas, several of which are of major concern in Kansas. Research in these problem areas and the findings and recommendations which would result would therefore be invaluable to the State. Areas spotlighted for further study and which are of special significance to Kansas include:

Study of the systems and the components of rural health care.

Development of a policy with respect to long-term care—particularly for mentally retarded and physically handicaped individuals and senior citizens—with special emphasis on alternatives to institutionalization, including the use of home health aids.

Study of manpower requirements including new types of health manpower to insure that adequate physicians, health professionals and technicians will be available to deliver quality health care to all segments of the population.

Development of systems and technical components of emergency health care and services, including at least one experimental statewide helicopter transportation emergency care system, which would utilize, where possible, the skills of returning military medical corpsmen.

Development of preventive medicine and the techniques and technology including multiphasic screening and testing, to improve the early diagnosis and treatment of disease, particularly for preschool children.

Continuing education and the exploration of programs and methods to help health professionals to stay abreast of current developments and to maintain professional excellence.

BUILD ON EXISTING GOOD

The programs authorized under S. 723 could bring major improvements in the health delivery field. The dollar investment is relatively small. The emphasis of the bill is on improving and making better use of existing health care system components, rather than investing large amounts of Federal dollars in new delivery programs which are unproven and possibly disruptive of the good that does exist in our existing health care delivery systems. I am hopeful that this measure will be enacted so the work and study in this important field can begin in the near future.

QUORUM CALLS

Mr. BEALL. 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. BEALL. 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. BEALL. Mr. President, I ask for the yeas and nays.

The yeas and nays were ordered.

Mr. KENNEDY. Mr. President, I ask unanimous consent that it be in order to ask for the yeas and nays on S. 504, to be called up shortly.

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

Mr. KENNEDY. Mr. President, I ask for the yeas and nays on S. 504.

The yeas and nays were ordered.

The PRESIDING OFFICER. The pending bill is open to further amendment. If there be no further amendment to be proposed, 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? 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. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa (Mr. HUGHES) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that if present and voting, the Senator from Alaska (Mr. GRAVEL), and the Senator from Iowa (Mr. HUGHES) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from Virginia (Mr. SCOTT) is absent on official business.

The result was announced—yeas 79, nays 15, as follows:

[No. 140 Leg.]

YEAS—79

Abourezk	Fulbright	Montoya
Aiken	Griffin	Moss
Baker	Hart	Muskie
Bayh	Hartke	Nelson
Beall	Haskell	Nunn
Bentsen	Hatfield	Packwood
Bible	Hathaway	Pastore
Biden	Hollings	Pearson
Brooke	Hruska	Pell
Buckley	Huddleston	Percy
Burdick	Humphrey	Randolph
Byrd, Harry F., Jr.	Inouye	Ribicoff
	Jackson	Saxbe
Byrd, Robert C.	Javits	Schweiker
Cannon	Johnston	Scott, Pa.
Case	Kennedy	Sparkman
Chiles	Long	Stafford
Church	Magnuson	Stevens
Clark	Mansfield	Stevenson
Cook	Mathias	Symington
Cranston	McClellan	Taft
Dole	McClure	Talmadge
Domenici	McGee	Tunney
Dominick	McGovern	Weicker
Eagleton	McIntyre	Williams
Ervin	Metcalf	Young
Fong	Mondale	

NAYS—15

Bartlett	Curtis	Helms
Bellmon	Eastland	Proxmire
Bennett	Fannin	Roth
Brock	Goldwater	Thurmond
Cotton	Gurney	Tower

NOT VOTING—6

Allen	Hansen	Scott, Va.
Gravel	Hughes	Stennis

So the bill (S. 723) was passed, as follows:

S. 723

An act to establish a National Institute of Health Care Delivery, and for other purposes

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

SHORT TITLE

SECTION 1. This Act shall be known as the National Institute of Health Care Delivery Act of 1973.

FINDINGS AND DECLARATION OF POLICY

SEC. 2. (a) The Congress of the United States finds—

(1) that the United States faces a crisis in health care;

(2) that health care costs have increased in the last five years twice as fast as the general cost of living;

(3) that there exists an acute shortage and maldistribution of physician and other medical manpower in inner city and rural areas;

(4) that millions of Americans do not have access to quality health care;

(5) that since World War II the United States has invested approximately $20,000,000,000 in biomedical research, and that this investment has resulted not only in wide recognition of the preeminence of biomedical research in the United States, but also produced many, often spectacular, advances in medical science;

(6) that during the same period comparatively few resources were invested to deliver the discoveries of medical research and technology to our citizens;

(7) that the American public is concerned with the gap between the knowledge and capabilities of medical science and what is delivered to the patient, and that this is a source of public discontentment and dissatisfaction;

(8) that significant changes regarding the health care system have been proposed and may be implemented in the near future;

(9) that the potential costs and benefits associated with the various proposals are largely unknown; and

(10) that inadequate attention emphasis, and resources have been devoted to health policy analysis and health care delivery.

(b) It is the purpose of this Act to establish a National Institute of Health Care Delivery and regional and special emphasis centers to improve health care delivery and to help speed the delivery of the benefits of medical science and the scientific discovery system to the people of the United States.

SEC. 3. The Public Health Service Act is amended by inserting after title XI the following new title:

"TITLE XII—NATIONAL INSTITUTE OF HEALTH CARE DELIVERY

"DEFINITIONS

"SEC. 1201. For the purposes of this title—

"(1) the term 'health care delivery' includes all aspects and interrelationships of the organization, financing, and provision of direct health services to individuals, families, and groups for the purposes of prevention, cure, rehabilitation, restoration, and maintenance of function, and related health services essential to good health.

"ESTABLISHMENT OF INSTITUTE

"SEC. 1202. (a) There is hereby established in the Department of Health, Education, and Welfare a 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 Government agency 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 for a term of four years. There shall be in the Institute a Deputy Director, who shall be appointed by the President, by and with the advice and consent of the Senate, for a term of four years. 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. Upon the expiration of his term, the Director and Deputy Director shall continue to serve until his successor has been appointed and has qualified.

"(c) The Director is authorized to appoint within the Institute not to exceed four Assistant Directors.

"FUNCTIONS OF THE INSTITUTE

"SEC. 1203. (a) It shall be the function of the Institute 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 areas and subjects—

"(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 safety 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 material 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 their 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.

"(b) The Institute shall (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 private 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 shall evaluate the quality, effectiveness, and efficiency of Federal health programs, including titles V, XVIII, and XIX of the Social Security Act.

"(d) 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. 1204. (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 the 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 title;

"(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 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 title.

"(b) Upon requests made by the Director, each Federal agency is authorized and directed 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. 1205. (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.'

"JOINT WAIVER FUNDING AUTHORITY

"SEC. 1206. Where funds are advanced for for a single project by more than one Federal agency for the purposes of this title, the Director of the Institute 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.

"TRANSFER OF RESEARCH FUNDS OF OTHER GOVERNMENT DEPARTMENTS AND AGENCIES

SEC. 1207. 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. 1208. (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 sec-

tion, the President, for a period of two years after the date of enactment of this title, 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 title. 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. 1209. (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 Institutes of Health Care Delivery who shall be ex officio members and an additional fifteen members not otherwise of the regular full-time employee 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 consumers 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 term 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 503, 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. 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 1213, and advise the Director on the development and conduct of programs of the Institute and centers;

"(2) examine and coordinate health care delivery efforts 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 to the health care system 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 required by section 1210 of this Act, its report on the progress of the Institute and centers toward the accomplishment of the objectives of this title, and the status of health delivery research development in the United States including any minority views of the Council members.

"SEC. 1210. 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.

"HEALTH CARE DELIVERY INFORMATION SERVICES

"SEC. 1211. There is created within the National Institute of Health Care Delivery an Office of Health Care Delivery Information Services. Such office shall provide—

"(1) for the provision of indexing, abstracting, translating, and other services leading to a more effective dissemination of information on research and development in health care delivery, to public and private agencies, institutions, and individuals engaged in the improvement of health care delivery and the general public; and

"(2) undertake programs to develop new or improved methods for making such information available.

"AUTHORIZATIONS OF APPROPRIATIONS

"SEC. 1212. For the purposes of carrying out the provisions of this title (except for the provisions of section 1213) there are authorized to be appropriated $95,000,000 for the fiscal year ending June 30, 1974; $105,000,000 for the fiscal year ending June 30, 1975; and $115,000,000 for the fiscal year ending June 30, 1976. Any unexpended sums appropriated pursuant to this section may be carried over without fiscal year limitations. Funds authorized for the fiscal year ending June 30, 1974, shall include all of the funds authorized under section 304 of this Act.

"REGIONAL AND SPECIAL EMPHASIS CENTERS

"SEC. 1213. (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 is authorized to enter into cooperative arrangements with public or private nonprofit agencies or institutions to pay all or part of the cost 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 of 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 $20,000,000 for the fiscal year ending June 30, 1974; $25,000,000 for the fiscal year ending June 30, 1975; and $30,000,000 for the fiscal year ending June 30, 1976. Any unexpended sums appropriated pursuant to this subsection may be carried over without fiscal year limitations.

"SUPPLEMENTAL INCENTIVE GRANTS TO ENCOURAGE EXPERIMENTATION

"SEC. 1214. (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 Act 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 authorized by this title shall be available to carry out this section."

Mr. KENNEDY. Mr. President, I move to reconsider the vote by which the bill was passed.

Mr. HATHAWAY. Mr. President, I move to lay that motion on the table.

The motion to lay on the table was agreed to.

EMERGENCY MEDICAL SERVICES SYSTEMS DEVELOPMENT ACT OF 1973

Mr. KENNEDY. Mr. President, what is before the Senate?

The PRESIDING OFFICER. Pursuant to previous agreement, the Senate will proceed to consider S. 504.

Mr. KENNEDY. As I understand it, the yeas and nays have been ordered on final passage. Is that correct?

The PRESIDING OFFICER. The Senator is correct.

The clerk will state the bill by title.

The assistant legislative clerk read the bill (S. 504) by title, as follows:

A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive emergency medical service systems.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare with an amendment in the nature of a substitute.

Mr. KENNEDY. Mr. President, I am delighted to be able to join Senator CRANSTON today in supporting S. 504, which is designed to encourage the creation of areawide coordinated emergency medical services systems throughout the country. I believe the passage of this bill is essential if we are to enable our health delivery system to meet the demands placed upon it by accidental injury and sudden death.

Accidental death is one of the great neglected diseases in our society today. In fact, lack of adequate emergency medical services is the major cause of avoidable premature death today, indeed it is the leading cause of death among all people between the ages of 1 to 38. Each year more than 52 million U.S. citizens are injured and of those more than 110,000 die, 11 million require day bed care for a day or more, and 400,000 suffer lasting disability. Of the more than 700,000 deaths from heart disease each year, the majority are due to acute myocardial infarction and more than half of these deaths occur before reaching a hospital. Approximately 40 million persons seek care each year in hospital emergency departments as a result of accidents, heart disease, stroke, poisoning, diabetic coma, conclusive disorders, and many other illnesses.

The enormity of these figures helps to demonstrate the great need that American citizens have for emergency medical services. And yet, emergency medical services is one of the weakest links in the delivery of health care in the Nation. Every year, thousands of lives are lost through the lack of systematic applications of the established principles of medical care. Far too often those who arrive at the site of, for example, a highway accident, are inadequately trained and unable to cope with the human disaster they face. Recent surveys have shown that only 65 percent of the country's present 200,000 ambulance assistants have training to the level of the Red Cross advanced first aid course or higher, 25 percent have a lower level of training and 10 percent have none at all. The chances of the victim of a traffic accident being tended by a man who has little or no idea how to deal with the restoration of breathing, with control of hemorrhage or even with the splinting of fractures, is therefore terrifyingly high.

Not only are the ambulance personnel insufficiently trained: 20,000 of the country's 25,000 ambulances are of the hearse or limousine type. These are nearly always too cramped and underequipped; they do not give the victim the best possible chance of survival. Only 7 percent of all ambulances have radio communication with the hospitals in the area and thousands have no communication even with their dispatcher.

Even when and if the victim finally does arrive, still alive, despite the inadequate care he may have received on his way from the scence of the accident, at the hospital, he cannot expect much better treatment. In most cases, he arrives at the emergency departments without prior notification, and the personnel and equipment are not properly prepared to receive him. The situation is exacerbated by the fact that most emergency departments in the Nation lack not only facilities and personnel but are also overtaxed by millions of nonemergency cases for whom ancilliary outpatient facilities should be provided. Whereas there are many excellent facilities for the definitive care of illness throughout America, there are tragically few for the care of the critically ill, or injured, especially in rural areas.

In the last few years great efforts have been made by professional and other nongovernment organizations to improve the delivery of emergency medical care in the country. In some areas, which have adopted a comprehensive emergency medical service program, great and laudable progress has been made. But what is needed is concerted Government action together with the private sector.

And in recent years Federal agencies just have not moved fast enough to update emergency medical procedures. Within the Department of Health, Education, and Welfare, for example, the support given to research and development of emergency medical services procedures can be described at best as only patchy. Indeed, the report issued by the National Research Council of the National Academy of Sciences in March 1972, declared specically that—

While most of the agencies have resources that could and should be used in the development of a system of emergency medical services, the most efficient role that each agency may play in an overall program is reduced severely because there are no Federal focal points of responsibility.

This, along with the terrifying statistics of accidental injury and death which I have already quoted, seems to me to be an indictment of the way in which emergency medical services is provided in this country today. Emergency medical services is very much the poor relation in health care delivery today. This must be changed. S. 504, as amended, provides $225 million over the next 3 fiscal years for the improvement of almost every aspect of emergency medical services procedures in this country today. These funds, and others, are available on a matching basis of up to 75 percent to those entities which present a plan for a coordinated emergency medical services system for a geographic area. These plans must include a number of basic provisions. Among them: the establishment of an Areawide Emergency Medical Services Planning Council, proposals for training personnel at all levels, a central communications system, universal access to all emergency medical services, regardless of ability to pay, plans for followup and rehabilitation capability, and public education in the subject.

The bill also requires the establishment of an Interagency Technical Committee to oversee and coordinate all aspects of emergency medical care delivery within the Federal Government and a national emergency medical services council composed of members of the general public, or providers of emergency medical services and of the members of the Technical Committee. The functions of this council include reviewing emergency medical services plans submitted under the bill and advising the Secretary of HEW on the continued development of emergency medical services systems.

Since this bill was introduced by Senator CRANSTON and myself and 13 other Members of the Senate on January 23, the Senate Health Subcommittee has held 4 days of hearings—2 in Washington and 2 in California. At those hearings, we heard testimony from a broad variety of witnesses, including the American Medical Association, the American Hospital Association, the Society for Critical Care, the College of Emergency Physicians, and many other individuals and organizations concerned in either providing or receiving health care. The only witness who asserted that the bill was unnecessary was from the administration. All others testified to the excellence of the bill, and many of them made most constructive suggestions as to how the bill would be amended to improve it further. And several of those suggestions have been incorporated into the bill as reported. None of these amendments change the basic purpose or direction of the bill, but all of them help to make it, I believe, an even tighter and more useful piece of legislation. For instance, 15 percent of all funds appropriated are now earmarked for rural areas. And rather than have the president of the national council appointed by the Secretary, he is now to be appointed by the President from among the members of the general public serving on the council. The council is further strengthened by making all those

members who serve on it by virtue of their membership of the Interagency Technical Committee ex-officio nonvoting members. The purpose of these amendments is to make the council a genuine national and independent focus of responsibility for the development of emergency medical services throughout the country.

Mr. President, the crisis in emergency medical services at the moment is so serious and concern for its improvement is so widespread throughout the country that all the work on this bill and all the amendments that have been made to it in committee were done on a bipartisan basis, with all members of the subcommittee in full agreement with the bill as unanimously reported. Mr. President, this excellent bill will provide just the sort of focus of responsibility that is lacking today. It is an essential bill and I am confident that it will pass promptly and be of enormous benefit to our society.

In conclusion, Mr. President, we will be considering this afternoon an extremely important measure, because the enactment of this legislation, with appropriations, will result in actually saving hundreds of thousands of lives. This is an emergency medical service program, authorizing the expenditure of some $225 million over a 3-year period. It provides the hardware, the training, the coordination for the development of these emergency medical services.

To a great extent, it is a tribute to the distinguished Senator from California (Mr. CRANSTON), who initially introduced this legislation over a year ago, who conducted the field hearings in his own State of California, and who has done perhaps more than anyone else to bring this legislation before the Senate this afternoon, both in the preparation of the legislation and also in the preparation of the report itself. I think it is a matter of great importance and significance.

I might say that although we are talking about over $225 million for this particular program, and some $15 million for research in this area, the American Medical Association wanted to double this figure. This is probably one of the few occasions that the AMA wanted our subcommittee to double the authorization for a program, but that just goes to show how prudent we on that committee are in guarding the Federal Treasury.

Now I would like to have the Senator from California, who, as I have said, has done so much in the development of the legislation, to explain the bill in greater detail.

So I yield the floor.

Mr. CRANSTON. Mr. President, I want first to thank the distinguished chairman of the Health Subcommittee for those very generous words and for his wonderful cooperation, counsel, and assistance and the contributions of the able subcommittee staff in preparing and handling this legislation.

INTRODUCTION

Mr. President, I am deeply gratified that the Senate today will be voting on S. 504, the Emergency Medical Services Systems Development Act of 1973, which I introduced on January 23, 1973, with broad bipartisan support, including the leadership of the Labor and Public Welfare Committee, and the Health Subcommittee. This is a measure that will enable communities throughout the Nation to take a good look at their resources for providing the urgent care needed in medical emergencies and to develop means of coordinating these resources and to supplement them where necessary to insure that the residents of the community and visitors to the community will receive appropriate medical attention without delay when it is needed.

THE BILL IN THE 93D CONGRESS

Mr. President, S. 504 as introduced was virtually identical to S. 3784, the bill I introduced in the 92d Congress which was incorporated into S. 3716 as sections 3 (c) and (d). S. 3716 was passed by the Senate on September 20, 1972, by a vote of 78 to 0. When I introduced S. 504 in the 93d Congress, three changes were made in the provisions passed by the Senate the previous year.

These were: First, to authorize separate appropriations for research in emergency medical services techniques, devices, methods and delivery coordinated with emergency medical services systems; second, to include language authorizing the secretaries of each military department to enter into arrangements with communities for the establishment of MAST—military assistance to safety and traffic—programs; and third, to direct that the annual report required by the proposed legislation including a study of the legal barriers to the provision of emergency medical care.

The Subcommittee on Health of the Labor and Public Welfare Committee held 4 days of hearings on this legislation—2 of which I was privileged to chair in California—and received very constructive suggestions from a broad range of viewpoints which provided the members of the committee with new information on, and insights into, the problems involved in the development of emergency medical services systems.

The committee carefully reviewed all of these suggestions, and we revised the bill to deal with many of them, as I will detail later in my statement.

All witnesses testified to the need for the development of comprehensive and integrated emergency medical services systems in local communities and, with the exception of the administration witnesses, to the need for new legislative authority to create incentives for and authorize support of the development of such systems.

THE ADMINISTRATION'S OBJECTIONS MET

Mr. President, I think it is useful to point out what appears to be the basis for the administration's objections to this legislation. The administration talks in terms of demonstration initiatives; whereas S. 504 authorizes support for the development of comprehensive emergency medical services systems in local communities.

I believe there is sufficient knowledge and experience available now, which can be employed effectively now, in the Nation's communities. We do not need "demonstration" projects to show us how to improve medical care in emergencies.

The subcommittee received convincing testimony from a broad range of witnesses to exactly this effect. The excellent study undertaken by the National Research Council of the National Academy of Sciences, entitled "Roles and Resources of Federal Agencies in Support of Comprehensive Emergency Medical Services," published in March 1972, recommended the establishment of Federal support for programs along the lines authorized by S. 504 be established.

With this basic difference in approach as a backdrop, I would like to review the administration's four objections to the legislation under consideration in the committee.

First, Mr. President, it argued that ample legislative authority is already on the books to allow the conduct of a range of Federal "demonstration" initiatives in the EMS field. Second, the administration particularly objected to a provision in S. 654, a bill also under consideration in the committee, which would have established a new organizational structure in the department with responsibility for emergency medical services. Third, the representative of the administration stated that the appropriations authorizations in S. 504, and S. 654, were greatly in excess of the amount of funds that could conceivably be soundly invested in a Federal "demonstration" program in the foreseeable future. And fourth, the administration objected to the creation of local planning councils, a National Advisory Council, and an Interagency Technical Committee.

Within the committee, I worked very closely with my colleagues on a bipartisan basis to meet the administration's objections. I would like to express my deep personal gratitude to Senator KENNEDY, the chairman of the health subcommittee, for his counsel and cooperation, and to Senator DOMINICK for his insightful and constructive contributions to the development of the bill in committee. Also, particularly interested in this bill and of great assistance were Senator SCHWEIKER and Senator JAVITS, the ranking subcommittee and full committee minority members, and Senator WILLIAMS, chairman of the full committee, and Senator BEALL, who authored S. 654.

COORDINATED NOT DUPLICATIVE APPROACH

I believe we have developed a bill that meets the objections posed by the administration. The bill has been amended to make quite clear that it is not intended to duplicate existing legislative authorities. Specific direction to the secretary is written into the statutory language to assure that in providing assistance to communities eligible for grants to implement a plan for an emergency medical services system, the secretary must insure that any assistance under the provisions in S. 504 is provided only to the extent that assistance under other legislative authorities are insufficient to enable the qualitative and quantitative requirements established in the reported bill, and by the secretary pursuant to the bill, to be met.

Our intention is, Mr. President, that

when a community applies for help in developing a comprehensive emergency medical services system, the secretary of Health, Education, and Welfare shall first seek to provide such support from existing authorities of the Public Health Service Act—such as in health personnel training or renovation of facilities—and, as appropriate, investigate the availability of support under authorities administered by other federal agencies—such as the Department of Transportation for purchase of equipment and training—before providing funds under the provisions in S. 504 as reported.

REDUCED APPROPRIATIONS AUTHORIZATIONS

To move toward the administration's objection, the funding levels in the reported bill have been considerably reduced, despite very conclusive evidence presented to the subcommittee in hearings in Washington and California that much higher levels of funding are badly needed and can be effectively used. The sums authorized to be appropriated in the reported bill—$240 million over the next 3 fiscal years—are considerably less than in the bill as introduced—$315 million—and far lower than in S. 654, the AMA bill introduced by Senator BEALL—which would authorize appropriations of $630 million.

NATIONAL EMPHASIS

Moreover, Mr. President, we have not included in S. 504 the separate, identifiable HEW administrative unit called for in S. 654 to carry out EMS programs. Instead, S. 504, as reported, makes the EMS National Advisory Council a presidentially appointed body and provides the Council clear responsibilities in the grant review process and in the adoption of policies to implement the authorities provided in the bill. Although the administration had objected even to the establishment of the National Advisory Council, testimony presented to the subcommittee was so forceful on this point that I and the other members of the committee were convinced that a strong advisory council is essential to bring about the necessary coordination and to provide the essential leadership to help the Nation's communities develop their own systems of providing comprehensive emergency medical services to their residents and visitors.

NONPARTISAN ISSUE

With these accommodations to the administration's viewpoints, Mr. President, and with the strong support received for this legislation both from the general public and from professional organizations, I am hopeful the administration will now be able to accept the legislation as a realistic and workable approach to improving the Nation's emergency medical services capabilities in line with local needs and local priorities determined at the local level in accordance with national standards.

Mr. President, this is not a partisan issue. Human lives are at stake, and I plan to continue our bipartisan efforts to produce an effective measure which can be enacted into law.

Mr. President, at this point I would like to discuss at greater length the need for this bill and to describe some of the deficiencies existing in the Nation in the provisions of emergency medical services and how the S. 504 as reported will remedy these deficiencies.

NEED FOR BILL

DEFICIENCIES IN EMERGENCY MEDICAL SERVICES

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. I have been deeply concerned with the mounting numbers of deaths and disabilities resulting from medical emergencies which expert witnesses testified could be averted by adequate planning and organization of health resources.

MORTALITY AND DISABILITY FROM MEDICAL EMERGENCIES

Mr. President, accidental injury is the leading cause of death among all persons aged 1 to 38 and is the fourth leading cause of all deaths 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.

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.

A National Academy of Sciences-National Research Council report published in March 1972, estimated on the basis of current surveys that only 65 percent of the more than 200,000 ambulance attendants of the Nation were trained to the level of the advanced first aid course of the American National Red Cross or higher levels, that 25 percent were trained to a level less than the Red Cross course, and that 10 percent had no training at all in the fundamentals of first aid.

The ultimate goal outlined in the guidelines established by the National Academy of Sciences-National Research Council in its recommendations on the training of ambulance personnel is to create a nationwide corps of career ambulance emergency medical technicians who are qualified to carry out measures now applied by allied health personnel in emergency departments and by medical corpsmen in combat areas. It is estimated by the National Academy of Sciences-National Research Council that fewer than 35 percent of all ambulance personnel are now qualified at the recommended minimal basic level.

AMBULANCE SERVICES

Mr. President, the adequacies of ambulance services vary widely throughout the Nation. In 1968, the National Highway Safety Bureau conducted a survey which found that in many communities ambulance services are run by the local undertaker. In others, the ambulance service is a separate commercial enterprise—yet few of these find it a profitable business; more than a fourth of the commercial enterprises 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; however, few emergency victims are able to pay that amount. Third-party insurance rarely covers the full cost; in some instances it covers none of the cost.

The Medical World News, 1971 Special Report "The Crisis in Emergency Care" stated 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 department, or sheriff's office. Two percent of ambulance service is provided by hospitals.

The American College of Emergency Physicians reports, Mr. President, 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

Mr. President, increasing concern is being expressed throughout the Nation 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. The position paper prepared by the American College of Emergency Physicians in 1972 reported 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.

In the critically underserved neighborhoods of densely populated urban areas emergency medical services should more accurately be termed primary health services. Here the distinction between emergency medical care and primary health care is very difficult to determine.

This increased community reliance on the services of the emergency room has overburdened its resources and has vastly compounded the difficulties of providing effective critical care to the emergency victim.

In many communities, Mr. President, 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 overburdened, underequipped, and obsolescent emergency room facilities in these areas.

A special problem faces the rural 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 on a 24-hour basis. 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.

NEED FOR COORDINATION IN PLANNING SYSTEMS OF EMERGENCY MEDICAL SERVICES

Mr. President, I feel very strongly that a carefully planned, systematic approach with coordinated application of Federal and local resources can correct the deficiencies of emergency medical services throughout the country.

Modern science has given us the means of overcoming many of the present 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—all have provided us with the tools necessary to assure prompt response and reaction to a medical emergency.

Thus the technical information and the medical capacity to deal with most of 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 to involve 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.

What is needed Mr. President, is a framework whereby these units can work together nationally and locally to meet shared goals.

The proposed Emergency Medical Services Systems Development Act of 1973 provides the means by which this can be accomplished. The bill as reported adds a new title XII to the Public Health Service Act to authorize the Secretary of HEW to provide support to States, units of local governments, or certain combinations of local governments, to plan, assist in, improve and expand the provision of emergency medical services.

PROVISIONS OF THE BILL

ELIGIBILITY FOR ASSISTANCE UNDER THE NEW TITLE

Mr. President, S. 504 as reported includes a three-year appropriations authorization for grant and contract support ($37.5, $75, and $112.5 million for fiscal years 1974, 1975, and 1976, respectively) for the planning, development or expansion of emergency medical services systems as well as a separate appropriations authorization ($5 million for each year) for research in emergency medicine and systems development carried out in conjunction with a system implemented under the requirements of the bill. Support made available under the basic appropriations authorization may be used for planning, modernization (defined so as not to include erection of free-standing structures), training and manpower development, communications, transportation, the coordination of services and facilities, and other components necessary for the implementation of an emergency medical services system.

I would like to emphasize, Mr. President, that we do not intend to create new grant authorities under the provisions of this bill which are duplicative of existing authorities. The basic purpose of the legislation is to encourage and provide incentives to appropriate units of government to inventory their resources for providing comprehensive emergency medical services, identify the gaps in such services and seek to remedy these deficiencies through better coordination or utilization of existing resources—their own and those available under other Federal programs—as well as to develop the new components which are essential to the achievement of an integrated, comprehensive area emergency medical services system which would meet requirements established by the Secretary. Where assistance is available under other legislative authorities to support the development of any particular component of an emergency medical services system, the Secretary is required to direct the applicant first to seek such assistance and to provide support for such a component under the provisions of the new title XII only where such a component is not supported at all or is not sufficiently supported under other programs to enable it to meet the requirements established under the reported bill. This nonduplication provision is particularly applicable in the case of training of personnel—both paraprofessional and professional—where other authorities of the Public Health Service Act (titles III, VII, VIII, and IX) and other HEW authorities such as MDTA (Manpower Development and Training Act) and Vocational Education, as well as programs administered by other Federal agencies, among them the Department of Labor (MDTA and Vocational Education), the Department of Transportation's Division of Emergency Medical Programs (for training of paramedics), and the Veterans Administration, are available for support. Other components can also be supported by other PHS Act authorities including authorities for facility construction and modernization and for research as well as by other Federal agencies through programs such as those supported by the Division of Emergency Medical Programs of the Department of Transportation or the Department of Defense's MAST program.

SPECIAL PROBLEMS OF RURAL COMMUNITIES

Mr. President, testimony received at the Committee's hearings in Washington and California described the particularly acute problems rural communities have in providing adequate emergency medical care and in making successful applications for grant support. Since statistics on deaths and disabilities have demonstrated that the ratio of such tragedies is much higher in rural isolated areas in proportion to the number of emergency incidents, I felt special emphasis and support should be provided to the development of systems for rural areas. The bill as reported includes a provision that not less than 15 percent of the sums appropriated each year for the planning, development and implementation of emergency medical services systems shall be available only for grants and contracts to rural areas. I would hope the Secretary will provide the technical assistance to these communities which may be necessary to enable them to qualify for such awards. In certain instances, it may be appropriate for funds under the new title XII to be made available to the governmental unit involved to purchase consulting services in the development of such a plan, but generally the committee believed that such planning costs should be borne locally.

Some communities, Mr. President, particularly in rural areas, may not be able to provide the assurance that all components of the emergency medical services system can meet the standards prescribed by the Secretary and required to qualify for assistance under the new title XII. To avoid disqualifying such communities from consideration, the bill as reported, provides that where an applicant demonstrates clearly a particular component cannot meet standards immediately, a grant can be awarded on the assurance that such standards will be met within a year of the initial receipt of assistance.

AREAWIDE APPROACH AND INTRA- AND INTERGOVERNMENTAL COORDINATION

Mr. President, we also recognize that for a system to be efficient and effective, it must contain sufficient resources to meet the wide variety of demands made upon it by medical emergencies. Since all of such a wide range of services may not be available to a small local governmental unit, the bill provides that grants and contracts may be awarded to (1) States, (2) political subdivision, or (3)

regional arrangements, compacts, or consortiums which present a plan for a comprehensive and coordinated areawide emergency medical services system meeting requirements prescribed by the Secretary, and designed to serve a geographical area at least congruent with the boundaries of a 314(b) areawide comprehensive health planning agency (where one exists), or multiples of such areas, unless the Secretary deems a system serving such an area infeasible and approves a plan serving a portion of such an area. The bill also specifies that a community which presents a plan for a system must include appropriate arrangements for access to specialized medical units in a neighboring community where such resources are not available within portions of the area encompassed by the system or are geographically more accessible in the neighboring community.

Beyond the purpose of ensuring that the community applying for support under the provisions of the new title will be of sufficient size to be able to provide the bulk of the services required for a comprehensive emergency medical services system, the requirement that the geographical area be congruent with the 314(b) agency is intended to resolve in advance the complications and conflicts which are likely to arise in the case of overlapping or adjacent governmental jurisdictions in many areas. In further pursuit of this objective the bill provides that where a regional arrangement, compact, or consortium submitting a plan for an emergency medical services system, includes within its boundaries a standardized metropolitan statistical area, it must comprise at least those units of local government included in the SMSA.

A number of witnesses—among them representatives of the American Medical Association, the California Medical Association, the American College of Emergency Physicians, and the Society for Critical Care—testified to the necessity for continuing review and evaluation of the quality of services provided under an area emergency medical services system and for some form of sanctions where services failed to meet the required standards. The bill as reported provides that the Secretary is required to review annually the performance under the plan submitted for emergency services and is authorized to terminate assistance (in accordance with the Administrative Procedure Act—APA—adjudication requirements) to a grantee where he determines that performance is not substantially in accord with the plan submitted. Such a determination would have to take into consideration not only the review of the Secretary, but also the required independent review and evaluation submitted to him as part of the plan's implementation. These independent reviews and evaluations would be measured in terms of national norms and standards established by the Secretary under APA rulemaking.

DEVELOPMENT OF A PLAN

Mr. President, a basic requirement of any application for funding under the new title XII is the development of a comprehensive plan for the establishment of an area emergency medical services system. The first step for an applicant is to establish an area emergency medical services planning council whose membership must include representatives of all elements in the area to be served concerned with emergency medical services, including consumers, public safety agencies, communications networks, private ambulance firms, representatives of Federal agencies, as well as health care providers, health facilities, and health education institutions. The local council's functions include development of the plan, in consultation with the appropriate 314(a) (State comprehensive health planning agency) and 314(b) (areawide comprehensive health planning agency) agency or agencies, as well as continuous monitoring and evaluation of the operation of the area emergency medical services system.

Although almost all witnesses in subcommittee hearings testified to the importance of drawing on the experience of a broad representation of interests in developing a comprehensive area emergency medical services system, many pointed out that the large number of persons entailed in such a venture might prove cumbersome in the planning, implementation or administration of a system. Because we felt so strongly that all the elements cited in section 1204 in the reported bill, describing the membership of the Council, are essential to the achievement of a comprehensive system, the bill as reported retains a broad representative nature for the area council but permits it to delegate part or all of its authority to a representative subgroup which would, however, be required to reflect the total membership of the Council.

REQUIRED PROVISIONS OF A PLAN

To qualify for support, Mr. President, the plan submitted must provide for or assure that provision will be made for certain components or elements deemed essential for a complete and coordinated emergency medical services system for the area to be served.

UTILIZATION OF PERSONNEL AND FACILITIES OF PUBLIC SAFETY AGENCIES

Mr. President, testimony was presented to the subcommittee on the important role public safety agencies play in the provision of emergency medical services and the need to reinforce this role. The reported bill thus emphasizes that the plan for development of an area system for emergency medical services must provide for the effective utilization of the resources of the public safety agencies of the area, and specific mention is made of the need for training of appropriate personnel of these agencies in the provision of immediate on-the-scene emergency medical aid to victims of illness and accident.

One public safety agency resource which has particular applicability to the provision of emergency medical services is the helicopter utilized by these agencies for traffic control, police, disaster, or other purposes.

In Arizona and in Maryland, Mr. President, the use of these helicopters in emergency medical situations has been invaluable. In both States, the public safety personnel operating the helicopter have been trained to provide emergency medical treatment.

TRAINING

COORDINATION WITH EXISTING HEALTH MANPOWER PROGRAMS

Mr. President, to be eligible for a grant or contract, the applicant must include in the plan provision for the training of sufficient numbers of specialized professional and paraprofessional staff as well as providing for their continuing education. The bill specifies that support for all training and education activities developed under plans be sought first under other authorities of the Public Health Service Act or other laws and where sufficient assistance under such other provisions of law is not available to enable such programs to meet the requirements prescribed by the Secretary, the plan shall develop proposals for such training programs to be coordinated with programs authorized under titles III, VII, VIII, and IX of the Public Health Service Act. These procedures are designed to insure the full utilization of federally supported programs under other legislative authorities and to avoid the overlap and duplication of training activities and funding.

SHORTAGE OF SKILLED EMERGENCY PERSONNEL

Fully trained emergency medical services personnel are an essential element of any comprehensive emergency medical services system. The bill as reported, therefore, requires that the plan must include provision for adequate interdisciplinary programs for educating and training such individuals. The reported bill requires that these programs meet criteria and standards approved by the Secretary after due consultation with appropriate medical and educational entities and specialists. 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 emergency medical services systems supported under the new title, the Committee stressed that the Secretary should make the development of these programs a first priority.

TYPES OF TRAINING

In order for emergency medical services systems to be properly planned, developed, operated, and evaluated, several types and levels of personnel will be needed and must be trained.

TEAM TRAINING

The interdisciplinary, 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 utilizing the team concept for the provision of emergency medical services. The training of emergency medical services personnel is particularly well suited to the concept of team training provided within the concept of the total emergency medical services system.

CONTINUING EDUCATION

Continuing education is of paramount importance to the paraprofessional as well as to the professional. Thus, the plan must include provision for continuing education so that any member of the

emergency medical staff is required to participate in regularly scheduled continuing education programs.

PHYSICIANS

Currently, Mr. President, there are approximately 15,000 physicians providing emergency care on a full-time basis in emergency rooms across the 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. We were also impressed with testimony presented by the American College of Emergency Physicians on the need for an approved residency program in emergency medicine. Approval of a residency program would facilitate the training of the numbers of full-time emergency physicians needed to adequately serve the Nation's communities.

In addition, emergency medicine specialists, as well as all physicians must have access to continuing education programs geared to meeting medical emergencies with the most up-to-date techniques and resources.

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 such competence when they go into practice.

PARAMEDICS

Mr. President, the importance of adequate training of the paraprofessional, who in most instances, is the first person at the scene of the emergency, cannot be overemphasized. A number of standardized training programs for paramedics 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 on the emergency scene, 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. Mr. President, Los Angeles County has done an outstanding job in utilizing these highly trained paramedics.

FORMER MILITARY MEDICS

The utilization of former military medics and corpsmen in these systems seems particularly appropriate, and there has been some notable success by communities in recruiting these individuals for these positions.

PUBLIC SAFETY PERSONNEL

I also view the training of appropriate personnel of the public safety agencies in the community as an important consideration in any community's emergency medical system.

NURSING AND OTHER PERSONNEL

In addition, Mr. President, 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, and 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.

The reported bill amends title VII of the Public Health Service Act to include in the sections for special project grants and health manpower education initiative awards, specific authorization for grants for the interdisciplinary training of health personnel in the provision of emergency medical services. These amendments dovetail with the bill's purpose of utilizing existing health manpower training authorities and funding for the training of emergency medical services personnel, and make clear authority which was implicit in both of these title VII programs.

MANAGERS AND PLANNERS

In addition to the emergency medical personnel directly involved with patient care, there is a need for effective managers of emergency medical systems who can plan, develop, operate, and evaluate such systems. Ideally, these managers should 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 it is hoped that their development will be pursued at other educational institutions.

The general need for effective health managers or administrators is becoming more evident as medical services move from fragmented, unsystematic care to coordinated and organized systems. There is a real need for these specialists in implementing a comprehensive emergency medical services system in a large community or on a statewide basis.

TRAINING INTEGRATED WITH OTHER COMPONENTS OF THE PLAN

Mr. President, the reported bill does not provide a separate appropriations authorization for training programs operated in isolation from a comprehensive areawide emergency medical services system. It is my conviction that training for emergency medical services can be supported to a large extent by other legislative authorities and, in addition, to be successfully utilized that they must be integrated into and fully coordinated with an emergency medical services system operating in a community.

COMMUNICATIONS

Another requirement of every plan, Mr. President, is the provision for a 24-hour communications system which can provide the necessary linkage from the point of the emergency through a central point—where initial triage may be conducted to assure the individual is directed to the appropriate services for his needs and the appropriate emergency personnel and vehicles can be dispatched—and on through all points of the system to the emergency medical facility and its highly specialized personnel and equipment. Such triage related to medical determinations would be carried out by a nurse or a paramedic with training and experience in such triage. The communications systems should be compatible with the transmission of patient data to the critical care unit through radio or video transmission or other electronic monitoring systems.

The 911 dial system currently being advanced by the telephone companies within the United States is highly effective in providing ready consumer access to an emergency medical services system. But its installation is sometimes a time-consuming process, and alternative courses of action should be explored by communities as an interim 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, especially when the consumer is a child or a stranger to an area and unable to identify his location. One method which has proven effective in England is to designate the precise geographical location clearly on the callbox or in the telephone booth. Areas of technology must be pursued so that future capabilities can be established to help the central dispatch point identify the location of calls from nonpublic sources.

TRANSPORTATION

Mr. President, another requirement of an area emergency medical services system is adequate provision for transportation. Sufficient numbers of vehicles equipped with the necessary lifesaving equipment, staffed 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 and would form important components of a program for the provision of comprehensive emergency medical services.

Transportation systems must be geared to the special geographical characteristics of the community, Mr. President. 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. Much more needs to be done, however, to apply to our civilian life the great accomplishments which have been made, through helicopter transport and other methods in the Indochina war, to provide immediate life-saving, life-sustaining services within moments of injury. 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 in this country.

One of the major deterrents to greater utilization of helicopters is the heavy expense. 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 and therefore more economical use of this expensive and selective method of transport.

FACILITIES

Mr. President, another major element in any system for the provision of emergency medical services is adequate facilities, conveniently and strategically located and categorized as to particular competencies, and available for utilization on a 24-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. Much organizational efficiency could result from the application of the type of procedures for categorization of facilities which were recommended by the Commission on Emergency Medical Services of the American Medical Association.

Adoption of such a categorization system 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 and financial resources.

The committee felt that generally the construction of free-standing facilities for the provision of emergency medical services would not be an efficient means of providing such services or a sound investment of resources. Thus, the bill provides support for the "modernization" of existing resources and defines modernization (in a definition similar to, but without the word "replacement," contained in section 645 of the Public Health Service Act) to mean "alteration, major repair (to the extent permitted by regulations), remodeling and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings."

I wish to emphasize our concern that communities utilize existing facility resources to the optimum. Where specialized services are nonexistent in a community submitting a plan for a system, the community's plan must provide for appropriate access to such units in a neighboring area where such access is feasible in terms of time and distance.

Mr. President, an example of the type of specialized services for which access must be planned in a system providing for comprehensive emergency medical services is the center for the high-risk newborn infant.

Under this legislation, emergency medical transportation systems could be made available to transport high-risk newborn infants. Great advances are being made in the care of infants in the field of pediatrics through intensive care and treatment of sick babies in special newborn centers. These intensive care nurseries are to infant mortality what the coronary care unit is to the heart patient.

A team of highly trained professionals utilizing sophisticated equipment—including incubators which permit temperature and oxygen control, monitoring equipment for cardiac rate, complex pumps for administration of intravenous fluids and intricate apparatus for resuscitation. Because the cost of these units is prohibitive for the average hospital and the staff personnel are not readily available, intensive care units for the newborn must be developed on a regional basis. Also, specially designed portable incubators may be utilized in conventional ground vehicles, fixed wing aircraft and helicopters when such modes of transportation are available.

UNIVERSALITY OF PROVISION OF SERVICES

Mr. President, the plan must also provide 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 third-party coverage. Far too many stories are told about the first questions asked of a patient being "do you have insurance" or "how can you pay" rather than "where do you hurt" or "how can I help you."

PROVISION FOR MASS CASUALTIES

Mr. President, the plan must also provide for the development of a program to cope with emergency medical services during mass casualties, natural disasters, or national emergencies. In many such circumstances, such as the San Fernando, Calif., earthquake in February 1971, total coordination of and access to resources within the community and in neighboring communities, as well as backup systems and equipment, are required to deal with a large number of casualties.

PUBLIC INFORMATION PROGRAMS

I feel that public information programs advising residents and visitors to the community as to means of access to the emergency medical services system in the community, methods of self-help, and sources of first-aid training are absolutely indispensable to the success of the implementation and operation of any program of emergency medical services. They are also fortunately the easiest and least expensive to mount effectively. These public information programs are an essential element of any program, and the bill requires that every plan provide fully for such programs. Much of such a program can be carried out through appropriate utilization of public service programs of the mass media in the area, through dissemination of material through the public education system (mimeographed notices to school children to take home to their parents), through education programs of voluntary organizations, materials distributed at hospitals, libraries, post offices and other public distribution points, and through other means. Accordingly, the Committee does not intend that funds under the new title will be used to carry out the public education component of the plan; however, some responsibility for promoting and coordinating public information efforts by a staff person supported with funds under the new title would certainly be appropriate.

REVIEW AND EVALUATION

Mr. President, the plan must also provide for the periodic, comprehensive, review and evaluation by independent persons or entities of the extent and quality of the emergency medical services provided in the area, measured in terms of national norms and standards established by the Secretary in rules prescribed under the APA.

STANDARDIZED PATIENT RECORDKEEPING SYSTEM

The reported bill requires that the plan provide for the establishment of a standardized patient recordkeeping system covering the treatment of the patient from initial entry into the system to discharge from the system consistent with ensuing records for followup treatment and rehabilitation. However, if the applicant demonstrates by clear and convincing evidence the infeasibility of so providing immediately, the reported bill permits the Secretary to waive this requirement in accordance with rules prescribed under the APA.

COORDINATION AT THE NATIONAL LEVEL

Mr. President, considerable testimony was provided by representatives of professional groups to the effect that because the provision of emergency medical services has become a matter of nationwide concern and interest and because responsibility at the Federal level for the provision of these services is presently lodged in many existing Federal agencies, a separate agency responsible to the President and outside of any existing Federal agency should be established to provide the coordination and leadership necessary at the Federal level. While I agree coordination is essential, I do not believe the establishment of an additional agency is the most effective or appropriate way to focus Federal attention on this problem. Instead, the bill provides for the establishment of an Interagency Technical Committee and a National Emergency Medical Services Advisory Council.

INTERAGENCY TECHNICAL COMMITTEE

At the Federal level, Mr. President, the bill establishes an Interagency Technical Committee to coordinate Federal programs and activities relating to emergency medical services. 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 Interagency Committee is de-

signed to achieve further cooperative efforts at the Federal level. At the same time, local community efforts must also be made to foster these coordinated arrangements at the local level.

A provision of the reported bill would authorize the Secretaries of each military department—including the Secretary of Transportation as to the Coast Guard in nonwar periods—to enter into agreements with communities for the establishment of MAST programs. These programs have been in effect in five communities with outstanding results. However, the Department of Defense General Counsel has ruled that authorizing legislation is necessary for the expansion of these programs to additional communities. The legislative authority in the reported bill will enable MAST programs to be initiated in some 21 new sites which currently have the capabilities to participate in MAST programs.

NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

A National Advisory Council is established by the reported bill within HEW to review and advise on applications and to make recommendations to the Secretary on implementation of programs under the new title XII. This Council includes (as ex officio nonvoting members) not only representatives from other Federal agencies, but also the Director of the National Institutes of Health and the Administrator of Health Services and Mental Health Administration. I recognize that the development of effective area emergency medical systems will depend on the coordination of the resources of both the research and services components of the Public Health Service and for that reason have specifically included the directors of these units on the Advisory Council. Many representatives of professional organizations and other individuals experienced in the development of emergency medical services argued the need for a focus of responsibility with the Federal Government. The reported bill provides that the Chairman and the other nongovernmental members of the National Emergency Medical Services Advisory Council shall be appointed by the President. The reported bill provides that there will be 15 Presidentially appointed members of whom 7 must be representatives of the general public and 8 must be individual experienced in the provision or development of emergency medical services systems or the training of personnel for emergency medical services systems. The Chairman of the National Advisory Council is to be designated by the President from among the appointive members who represent the general public. The reported bill further specifies that only the appointive members shall be voting members of the Council and that a quorum for carrying out the functions of the Council shall consist of nine voting members. The functions of the Council shall be (1) to advise, consult with, and make recommendations to the Secretary on applications received for grants and contracts in excess of $35,000 (in the same way as peer review advisory councils for the Institutes in NIH), (2) to make recommendations with respect to carrying out all provisions of the bill, including the preparation and review of the annual budget estimate, and (3) to be responsible for collecting, analyzing, and disseminating all data useful in the development of area emergency medical services systems, as well as establishing a national data bank.

The responsibilities given the appointive members of the Council should insure that programs administered under the provisions of the new title are responsive to community needs. In addition, the committee believed that, by virtue of the membership on the Council of all members of the Interagency Technical Committee, the Council will be in a prime position to effect the coordination of programs under the new title as well as programs administered under other authorities of Federal law.

RESEARCH

Mr. President, in addition to the basic elements of an emergency medical services system, such as trained personnel, communications systems, transportation systems, and facilities, intensive research is needed on all aspects of such a system. Such research should be directed toward understanding physiological changes produced by trauma, and should utilize the latest technical knowledge in the development of sophisticated hardware and equipment for monitoring or treating the patient as well as toward the development of systems for providing emergency medical services.

Relatively little has been done in fundamental studies on acutely injured individuals in the areas of wound healing and infections, and psychological, metabolic, cardiac, and respiratory changes following trauma. A beginning has been made through the eight trauma centers supported by the National Institute of General Medical Sciences, but funding for these programs has always been quite limited. The substantial reduction in mortality and lasting disability from burns resulting from the establishment in recent years of specialized burn centers attests to the positive results that can be achieved through applying concentrated medical efforts in a center where multidisciplinary teams can work together in developing optimum treatment capacities and an organized approach to providing specialized care.

In addition the scientific capability developed from the manned space program could well be used to improve our ability to provide emergency medical services.

Because of the need for research in areas related to emergency medical services systems, the reported bill provides separate appropriations authorizations of $5,000,000 annually for support of research programs. Such grants for research must be carried out in conjunction with area emergency medical services systems which have developed a plan meeting the requirements of the new title.

The funding mechanism has been expanded to include contracts as well as grants with nonprofit entities for research and contracts with private agencies, organizations, or institutions for research. However, the requirement that any such research program must be carried out in conjunction with the implementation of a plan approved under the new title XII remains applicable.

ROLE OF COMPREHENSIVE HEALTH PLANNING AGENCIES

Since the 314(b) areawide health planning agency should be the logical local entity to coordinate and plan for a well functioning health system, the new title requires involvement of these agencies in the development and implementation of any programs for area 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—where one exists—unless the area proved to be incompatible with 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 insure that grants and contracts awarded under the provisions of the new title are directed toward the implementation of plans for emergency medical services systems in accordance with its provisions, the reported bill requires the applicant to report periodically on progress achieved in the development, establishment, or expansion of components of such systems.

STANDARDS

Mr. President, to assure the effectiveness of such systems, all components of an emergency medical services system must meet standards and criteria established in rules by the Secretary in accordance with the APA, which includes a full right to advance public notice and personal appearance.

Several witnesses testified to the difficulties some geographical areas might face in being determined eligible for a grant if in each case all components in question were required to meet these criteria and standards prior to the awarding of a grant. As a consequence, the bill as reported provides that, where an applicant has demonstrated by clear and convincing evidence that a particular component of its emergency medical services system cannot immediately meet such standards and criteria, the Secretary may award a grant or a contract on condition that the applicant provides reasonable assurance all such nonconforming components will meet such standards and criteria within one year of the initial receipt of assistance under the new title XII.

AWARD MECHANISMS

Mr. President, the reported bill provides for two alternative award mechanisms—grants and contracts. The broad nature and need for flexibility in the development of plans for emergency medical services systems in any given area are most appropriately addressed by the grant mechanism. A similar approach has also proven most effective 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 con-

tract mechanism has special applicability. The contract mechanism provides a greater degree of assurance that implementation of the plan will follow the original purpose in the plan submitted with the application and provides for greater control over compliance with requirements and quality standards prescribed by the Secretary.

Under the reported bill, utilization of the contract mechanism must be subject to the same review and approval procedures as the grant mechanism. There must also be sufficient flexibility 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.

GENERAL PROVISIONS

Mr. President, the bill as reported would insure that any Federal support of emergency medical services systems or components thereof is provided only where such system or components meet the standards and criteria prescribed by the Secretary in approving plans under the new title, and that such support is provided only in connection with a system approved for the receipt of assistance under the new title. Specifically, in the case of a new grant, the reported bill provides that except as otherwise provided in the new title itself, no payments under any other provision of law (this would include, for example a provision in a no-fault insurance bill to allocate a certain percentage of premium receipts to an emergency medical services sinking fund) may be made except in connection with a system approved for the receipt of assistance under the new title. The reported bill further provides that (except as explained below) no new grants or contracts for the development or expansion of or research in connection with emergency medical services systems or components of systems may be made from funds appropriated under any authority other than the new title XII if (1) grants or contracts for such purposes are authorized by such new title XII and (2) if the full amount authorized to be appropriated by such title XII has not been appropriated or if all such authorized and appropriated funds have not been made available for obligation.

This provision was derived from and carries out the same purposes as section 317(f) (communicable disease control programs) and section 318(f) (venereal disease prevention and control programs) of the Public Health Service Act.

The prohibition is qualified, however, Mr. President, by the provision that where all funds have not been appropriated and obligated, the Secretary is authorized (not withstanding any other law) to expend any such funds as are appropriated under any other provision of the Public Health Service Act, or under any other provision of Federal law, for the development or expansion of new emergency medical services systems or components thereof, but to do so only in accordance with all the provisions, limitations, and restrictions of the new title XII.

In the case of the continuation or renewal of grants or contracts, the reported bill provides that nothing in the new title would limit or restrict the continuation or renewal of grants and contracts under any other provision of law for the conduct of emergency medical transportation and services programs as long as such funds are used in connection with a system approved for the receipt of assistance under the new title.

REPORTS TO CONGRESS

The reported bill requires an annual report to Congress which shall include an evaluation of the adequacy of emergency medical services throughout the Nation, a study of the legal barriers to the provision of such care, 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.

Mr. President, I ask unanimous consent that appropriate excerpts of the committee report (No. 93–135), which I filed for Mr. KENNEDY on May 3, be set forth in the RECORD at this point.

There being no objection, the excerpts were ordered to be printed in the RECORD, as follows:

EXCERPTS OF COMMITTEE REPORT NO. 93–135

On January 31 and February 1, 1973, the Subcommittee on Health of the Committee on Labor and Public Welfare held hearings in Washington, and on March 9, and March 12, 1973, held field hearings in San Francisco, California, and Los Angeles, California, respectively. At the former hearings, testimony was received from representatives of the Department of Transportation and representatives of professional organizations, including the Society of Critical Care Medicine, the American College of Emergency Physicians, the Ambulance Association of America, the American Heart Association, the American Medical Association, and the American Hospital Association. In addition, considerable testimony was received from concerned individuals having experience in the provision of emergency medical services. At the field hearings in California, testimony was received from the Department of Health, Education, and Welfare, from directors of health services in major local units of government, from consumers, from representatives of rural communities, and from representatives of public safety agencies, schools of medicine, providers of emergency care (such as hospitals, free clinics, ambulance associations, and representatives of professional organizations, including the American College of Surgeons, the American Nurses Association, the California Medical Association, and the California Hospital Association), as well as other concerned individuals having experience in the provision of emergency medical services.

* * * * *

In executive session on March 22, 1973, the Subcommittee on Health considered and unanimously ordered S. 504, with amendments favorably reported to the full Committee on Labor and Public Welfare. The full Committee met in executive session on April 5, 1973, and unanimously approved and ordered favorably reported S. 504 as reported from the Subcommittee with additional amendments all combined into a Committee substitute amendment, and with a title amendment.

* * * * *

SUMMARY OF BILL AS REPORTED

BASIC PURPOSE

The basic purpose of S. 504 as reported is to authorize the Secretary of Health, Education, and Welfare to provide support to States, units of local government, or combinations of local governments to plan, improve, and expand comprehensive and integrated systems for providing emergency medical services. Such support would be premised on the development of a comprehensive plan for the establishment of a comprehensive and integrated emergency medical services system in the applicant community. The plan would have to meet specified requirements, including opportunity for participation by all elements in the community having a relationship to emergency medical services in the development of the plan, and provision for certain essential components, including the training of necessary health care personnel (particularly paramedics), optimum utilization of facilities, adequate provision for transportation of patients, and a communication network providing the necessary linkage from the point of the emergency through despatch to a medical facility having the necessary specialized personnel and equipment. Other requirements of the plan include: assurances that anyone in need of emergency medical care will be provided such care without prior inquiry as to ability to pay for care; a program for coordinated and comprehensive public education and information; a plan for mobilization of resources to meet mass casualties arising from natural disasters; and provision for immediate access to specialized critical medical care units either within the community or in a neighboring community, as well as for a system to provide such followup care and rehabilitation (with consistent record-keeping) as is necessary to bring about the patient's recovery.

The reported bill also establishes an interagency technical committee at the Federal level to coordinate Federal programs and activities relating to emergency medical services, and establishes a National Advisory Council within H.E.W. to advise, consult with and review and make recommendations (in the same way as peer review panels operate for the National Institutes of Health) to the Secretary on applications for grants or contracts received and implementation of programs authorized by the reported bill.

Finally, the reported bill provides for special grants or contracts for research programs carried out in conjunction with area emergency medical services systems which have submitted a plan meeting the requirements set forth in the reported bill.

It should be stressed that, although assistance is authorized to be provided under grant or contract as necessary to support the carrying out of any requisite component of a plan, the basic thrust of the bill is to provide incentive payment with maximum reliance for funding placed on acquisition of funds and resources under other Federal programs (especially for facilities, health manpower training, and transportation and equipment through the Division of Emergency Medical Programs, Department of Transportation, and MAST) and on the generation of local funds. Provisions in the reported bill (sections 1201 and 1203(3)) make this explicit.

SUMMARY OF PROVISIONS

The reported bill adds to the Public Health Service a new title XII which:

1. Authorizes the appropriation of a total of $225 million over a three year period for grants and contracts to units of government (or combinations thereof) for the development of area emergency medical services systems, and requires that no less than 15 percent of the sums appropriated each year shall be made available for grants and contracts for rural areas. Makes clear that in determining the amount of funds to be provided

for any component of a system under any such grant or contract, the Secretary shall ensure that such assistance is provided only to the extent that alternative sources of financial support under other provisions of law for such a component are inadequate to enable it to meet the requirements for the plan prescribed in the regulations the Secretary is required to promulgate.

2. Authorizes grants and contracts to (1) States, (2) political subdivisions, or (3) regional arrangements, compacts, or consortiums (including at least a Standardized Metropolitan Statistical Area (SMSA) if any) presenting a plan for a comprehensive and coordinated emergency medical services system, meeting requirements which section 1203 requires the Secretary to establish. Provides for Secretarial review and evaluation of performance under the plan and authorizes termination of assistance whenever the Secretary determines, in accordance with prescribed standards, that performance is not substantially in compliance with the plan.

3. Requires that the plan submitted by each applicant include appropriate community participation, provision for coordinated training programs, communications systems, transportation systems, categorized and nonduplicative facilities, access to specialized medical care units; assurance that services will be available to all patients without prior inquiry as to ability to pay; provision for adoption of a plan for coping with mass disaster provision for transfer to facilities and programs for followup care; provision for a public information program; provision for continuing review and evaluation of the emergency medical services system measured in terms of national norms and standards established by the Secretary; and provision for a standardized patient recordkeeping system.

4. Requires the establishment of an Area Emergency Medical Services Planning Council which must include appropriate representatives of 314 (a) and (b) agencies, regional medical programs, public safety agencies, provider organizations, units of local government, appropriate Federal agencies, communications networks, mass media, public utilities, and the general public. Provides that the functions of the council will include the development in consultation with the appropriate 314(b) agency of the plan for the emergency medical services system, and the continuous monitoring and evaluation of the operation of the system.

5. Establishes the Interagency Technical Committee on Emergency Medical Services composed of representatives of all Federal agencies having a relationship to emergency medical services, which Committee is given responsibility for coordinating Federal programs and activities for emergency medical services.

6. Authorizes the Secretary of Defense to initiate additional MAST (Military Assistance to Safety and Traffic) programs.

7. Establishes a National Emergency Medical Services Advisory Council made up of members of the Interagency Technical Committee (as ex officio, non-voting members) and 15 members of the public (8 technical; 7 general) appointed by the President. The Council's functions shall be to advise, consult with, and review and make recommendations to the Secretary in the same way as peer review advisory councils operate at NIH on applications in excess of $35,000 and to make recommendations with respect to carrying out the provisions of the new title, including the preparation and review of the annual budget, and the collection and dissemination of data useful in the development of area emergency medical services systems, including the establishment of a national data bank.

8. Authorizes grants and contracts in the case of public or private nonprofit entities, and contracts in the case of private entities, for the support of research in emergency medicine techniques, methods, devices and delivery carried out in conjunction with a plan submitted in accordance with section 1203. A total of $15 million over a three-year period is authorized to be appropriated for such research.

9. Requires review of the grant application by 314 (a) and (b) agencies and an opportunity to submit non-binding comments on such application to the Secretary, and the maintenance and submission of such records and reports as the Secretary determines are necessary.

10. Requires all components of an emergency medical services system supported under provisions of the Act to meet standards and criteria established in regulations by the Secretary. Permits the Secretary to waive this requirement only when an applicant clearly demonstrates the infeasibility of complying immediately with respect to such a component but provides assurances that all components will meet such standards within one year of the initial receipt of assistance.

11. Prohibits payments under any other law in connection with the development or maintenance of emergency medical services systems except in connection with a system approved for receipt of assistance under section 1202.

12. Provides that where the sums authorized by S. 504 are not appropriated and obligated at the full level of authorizations in any fiscal year, funds available under any other law for *new* grants or contracts (grantees or contractees not previously receiving assistance) for the development or expansion of, research in, emergency medical services systems or components of such systems may not be obligated or expended except that the Secretary is authorized to obligate or expend such funds but to do so only in accordance with the requirements of the new title.

13. Requires that continuing grants or renewal of existing grants under any other provision of law shall be limited to those in connection with systems approved for the receipt of assistance under section 1202.

14. Requires an annual report to Congress on the administration of programs authorized by the new title, including an evaluation of the adequacy of the provision of emergency medical services throughout the Nation, a study of legal barriers to the effective provision of medical care in emergency situations and recommendations for necessary legislation.

Other provisions of the reported bill:

1. Amend title VII of the Public Health Service Act to include in the sections for special project grants and health manpower education initiative awards, specific authorizations for grants for the interdisciplinary training of health personnel in the provision of emergency medical services.

2. Clarify that the provision of care by a provider of emergency services or other person to an individual in the course of a journey by interstate carrier shall be governed by the law of the jurisdiction in which the provider of care resides, or if he is an individual who is regularly engaged in the provision of health services, by the law of the jurisdiction where he is regularly so engaged.

COMMITTEE AMENDMENTS

The Committee's substitute amendment included several changes as follows:

SUMMARY OF SUBSTANTIVE CHANGES

1. Because the provisions of S. 504 have broad applicability to all aspects of community health, including training, equipment, systems development, transportation, facilities, and the overall planning and coordination of health resources, the Committee felt the provisions to be added to the Public Health Service Act were more appropriately set forth in a separate title, rather than being added as a part of title VI, which relates solely to facility construction and modernization. The bill, as reported, adds a new title XII to the Public Health Service Act.

2. The bill was amended to clarify that, in determining the amount of funds to be provided to support any component in the plan for a system under the new title, the Secretary shall ensure that such assistance is provided only to the extent that alternative sources of Federal financial support under other provisions of law for such a component are inadequate to enable it to meet the requirements prescribed in the regulations the Secretary is required to promulgate. This "secondary funding source" approach was also made explicit in the emergency medical personnel training component of the plan.

3. The bill was amended to clarify that support under the new title could not be provided for construction of new free standing facilities and that any support relative to facilities would be limited to the modernization of existing facilities; and to delete "public education" from the list of activities specifically mentioned as a use of funds appropriated under the new title XII.

4. As a result of testimony stressing the particularly acute problems rural communities have in providing emergency medical care, the bill Committee provided that at least 15 percent of the funds appropriated to support emergency medical services systems under the new title shall be available for grants and contracts for rural areas.

5. In response to testimony from many witnesses (the American Medical Association, California Medical Association, American College of Emergency Physicians, and Society for Critical Care) about the necessity for review and evaluation of the quality of services provided under an area emergency medical services system and for some form of sanctions where services fail to meet the desired standards, the bill was amended to provide that the Secretary is required to review annually performance under a plan and to authorize him to terminate assistance where he determines that performance is not substantially in accord with the plan submitted. Any such determination would have to be made in accordance with rules governing adjudications as prescribed in the Administrative Procedure Act, and would have to take into consideration the reports of independent reviews and evaluations submitted to the Secretary as required by the new title.

6. Section 1203(12) was amended to require that the independent reviews and evaluations required by the new title shall be measured in terms of national norms and standards established by the Secretary in rules made on the record after opportunity for a hearing, in accordance with the rulemaking provisions prescribed in the Administrative Procedure Act.

7. To reinforce the important role the public safety agencies play in the provision of emergency medical services, the bill was amended to emphasize that consideration in the development of an area system for emergency medical services must be given to the effective utilization of the resources of the public safety agencies of the area, and specific mention is made of the need for training appropriate personnel of such public safety agencies in the provision of emergency medical services to victims of illness and accident.

8. A number of clarifying and technical changes were made to section 1203 which sets forth the requirements of a plan for an area emergency medical services system.

9. While substantially all witnesses testified to the importance of drawing upon the experience of a broad representation of interests in developing a comprehensive area emergency medical services system, many pointed out that requiring that a large num-

ber of persons be involved in all aspects of such a venture might prove cumbersome in the implementation or administration of a program. Because the Committee feels that representation from all the groups cited in section 1204 which describes the Area Emergency Medical Services Planning Council are essential to the achievement of a comprehensive system, section 1204 was amended to permit such a Council to delegate its authority to a subgroup which would, however, be required to reflect the total membership of the Council.

10. Substantial testimony was heard from professional groups that emergency medical services is an area of such importance, and that Federal programs related to these services are lodged in so many existing Federal agencies, that an identifiable unit with high visibility should be established to coordinate and administer these programs. The Committee has addressed itself to this issue by amending section 1206, establishing the National Emergency Medical Services Advisory Council, to make this Council a Presidentially-appointed Council, and to broaden its authorities beyond review and approval of grant applications to making recommendations regarding all authorities of the new title XII, including preparation and review of the annual budget for programs under that title, the collection and dissemination of data useful to the development of area emergency medical services systems, and the establishment of a national data bank.

11. The bill was amended to include authority for contracts as well as grants for research to public and private non-profit entities and for research contracts with private agencies, organizations or institutions. At the same time, the requirement that any such research program must be carried out in conjunction with the implementation of a plan submitted in accordance with the provisions of the new title XII remains applicable.

12. Several witnesses testified to the difficulties some areas might face in being determined eligible for a grant if all components of an area emergency medical services system were required to meet the criteria and standards prescribed by the Secretary prior to the awarding of a grant. To deal with this problem in a way consistent with the approach of the bill as reported, the Committee adopted an amendment to newly designated subsection (c) of section 1209 which provides that where an applicant has demonstrated that all components of its emergency medical services system cannot meet such standards and criteria immediately, the Secretary may award a grant or a contract as long as the applicant provides firm assurance that all such components will meet such standards and criteria within one year of the initial receipt of assistance under the new title.

13. A number of amendments were adopted in Committee to ensure that any Federal support of emergency medical services systems or components thereof would have to meet the standards and criteria prescribed by the Secretary in approving grants under the proposed title XII and would have to be made in connection with a system approved for the receipt of assistance under section 1202 in the new title.

In the case of a new grant, the provisions of subsections (e) and (f) of section 1209 would apply. Subsection (e) provides that, except as provided in subsections (f) and (g), no payments under any other provision of law may be made except in connection with a system approved for the receipt of assistance under section 1202 in the new title. Subsection (f) provides that no new grants or contracts for the development or expansion of or research in connection with emergency medical services systems or components thereof may be made from funds appropriated under any authority other than the new title if grants or contracts for such purposes are authorized by the new title and if the total amount of the funds authorized by the new title have not been appropriated or if all such authorized and appropriated funds have not been made available for obligation. Where all funds have not been appropriated and obligated, the Secretary is authorized to expend any such funds appropriated under any provision of the PHS Act, or under any other provisions of Federal law, for the development or expansion of emergency medical services systems or components thereof, but to do so only in accordance with all the provisions, limitations, and restrictions of the new title XII.

In the case of the continuation of grants or contracts, subsection (g) of section 1209 provides that nothing in the new title XII would limit or restrict the continuation or renewal of grants and contracts under other provisions of law for the conduct of emergency medical transportation and services programs as long as such funds are used in connection with a system approved for the receipt of assistance under section 1202 in the new title and such programs meet standards and criteria established by the Secretary under the new title XII.

14. Amendments were adopted in Committee to amend title VII of the Public Health Service Act to specify that programs for interdisciplinary training for the provision of emergency medical services are eligible for project grant support under sections 772 (Special Project Grants and Contracts) and 774 (Health Manpower Education Initiative Awards).

15. The title of the bill was amended so as to read: "A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems."

* * * * *

Cost Estimate Pursuant to Section 252 of the Legislative Reorganization Act of 1970

In accordance with section 252(a) of the Legislative Reorganization Act of 1970 (Public Law 91-510), the Committee estimates that, if all funds authorized were appropriated during fiscal year 1974 and the two succeeding fiscal years, the 3-year costs occasioned by S. 504, as reported, would be as follows:

TABLE 1.—EMERGENCY MEDICAL SERVICES SYSTEMS DEVELOPMENT ACT OF 1973 (AS REPORTED)

[In millions of dollars]

	Fiscal years		
	1974	1975	1976
Sec. 1201: Planning, development, and expansion of area emergency medical services systems	37.5	75.0	112.5
Sec. 1207: Research in emergency medicine techniques, methods, devices, and delivery	5.0	5.0	5.0
Yearly total	42.5	80.0	117.5
Grand total (3 years)		240.0	

Tabulation of Votes Cast in Committee

Pursuant to section 133(b) of the Legislative Reorganization Act of 1946, as amended, the Committee reports that there were no tabulations of votes on S. 504. The Committee unanimously adopted the amendments, and unanimously ordered the bill, with an amendment in the nature of a substitute and a title amendment, reported favorably.

Section-By-Section Analysis

Section 1.—Establishes the title of the proposed Act as the "Emergency Medical Services Systems Development Act of 1973".

Section 2.—Adds to the Public Health Service Act a new title XII—"Development of Area Emergency Medical Services Systems".

New Section 1201 of the new title.—Authorizes the appropriation of $37,500,000 in fiscal year 1974, $75,000,000 in fiscal year 1975, and $112,500,000 in fiscal year 1976 for special project grants and contracts with appropriate governmental entities for the planning and development or expansion of comprehensive area emergency medical services systems, reserving not less than 15 per centum of the sums appropriated in each fiscal year for grants or contracts for rural areas. Sums made available under the new section 1201 may be used for planning, modernization, training and manpower development, communications, transportation, coordination of services and facilities and other components necessary for the implementation of a plan for the provision of emergency medical services. The new section specifies that, in determining the amount of funds to be provided for any component of a system under any such grant or contract, the Secretary shall ensure that such assistance is provided only to the extent that such component is not supported by a sufficient amount of Federal assistance under other titles of the PHS Act or other provision of law so as to enable such a component to meet the requirements established by the Secretary under the new title XII.

New Section 1202 of the new title.—Provides that funds appropriated under all authorities of the bill as reported (research in new section 1207 and development or expansion of systems in new section 1201) may be awarded by the Secretary only after peer-review type consultation with the National Emergency Medical Services Advisory Council established by new section 1206 and that funds appropriated for the development or expansion of systems (section 1201) shall be provided on a matching basis of up to 75 per centum to (1) States, (2) political subdivisions, or (3) regional arrangements, compacts, or consortiums, which present a plan for a comprehensive and coordinated emergency medical services system meeting requirements prescribed by the Secretary. Such systems must be designed to serve a geographical area at least congruent with the boundaries of a 314(b) agency where one exists, or multiples of such areas, unless the Secretary determines a system serving such an area would be infeasible and approves a plan serving a portion of such an area. The new section further provides that in the case of a regional arrangement, compact, or consortium which includes a standardized metropolitan statistical area (SMSA), such arrangement, compact, or consortium must comprise at least those units of local government in such SMSA. The new section also requires the Secretary to review and evaluate annually performance under a plan and authorizes the Secretary to terminate assistance awarded under provisions of the new title XII where, based upon his annual reviews and evaluations and reports of the independent review and evaluations required by the new title XII, he determines after a hearing, that performance is not substantially in accord with the plan submitted under new section 1203.

New Section 1203 of the new title.—Sets forth the requirements of a plan for emergency medical services required to be submitted by each applicant pursuant to section 1202.

Clause (1) of new section 1203.—Specifies the basic purpose of the plan—to provide for a complete and coordinated emergency medical services system to serve the appropriate area and emphasizes that consideration must be given to the effective utilization of the resources of the public safety agencies in the area to be served.

Clause (2) of new section 1203.—Requires the plan to include a description of the area emergency medical services planning council

required to be established by new section 1204.

Clause (3) of new section 1203.—Requires the plan to include proposals for training and continuing education of health professionals and paraprofessionals in the provision of emergency medical services with priority given to the recruitment and necessary training of appropriate public safety personnel. The clause further specifies that support for such training and education programs shall first be sought under other appropriate authorities of the Public Health Service Act and other laws, and that, when support under the new title is provided because sufficient assistance is not available under such other authorities, programs supported under the new title shall be carried out in coordination with the education and training programs in the geographical area receiving assistance under other authorities of the Public Health Service Act. This clause also specifies that any such programs must need criteria established by the Secretary in regulations, and, in the case of training of paraprofessionals, must include supervised clinical training for at least one-half of the program.

Clause (4) of new section 1203.—Requires the plan to provide for a communications system with appropriate linkages with other communications networks, with maximum accessibility for the public, and telephonic triage screening (generally carried out by appropriate nurse or paramedical personnel) to direct the individual to the emergency facility most appropriate to his needs and to ensure that the most appropriate type of emergency medical unit is despatched to his aid. The system is required to allow for transmission of information by voice, telemetry, or other electronic method and to provide for cross-frequency patching capability.

Clause (5) of new section 1203.—Requires the plan to provide for an emergency medical services transportation system appropriate to the individual characteristics of the area.

Clause (6) of new section 1203.—Requires the plan to provide for the operation of easily accessible, continuously operational emergency medical facilities with appropriate capabilities which are nonduplicative and categorized in terms of competencies, and are situated at locations in the area suited to the needs of the area.

Clause (7) of new section 1203.—Requires the plan to make provision for emergency access to specialized critical medical care units in the area, and, where such units do not exist in the area, to provide for access to such units in a neighboring area where it is feasible in terms of time and distance. The clause also requires that provision be made for reciprocal agreements with neighboring areas for the provision of emergency medical services where such provision would be appropriate and effective in terms of services, time, and distance in a given situation.

Clause (8) of new section 1203.—Requires the plan to assure that necessary emergency medical services will be provided all patients requiring services and will be provided without regard to or prior inquiry as to ability to pay. Provision is included for a waiver of the first mandatory requirement to provide services in all situations—where the grantee subsequently clearly demonstrates the infeasibility of providing such universal services.

Clause (9) new section 1203.—Requires the plan to provide for the development, within one year of an award under the new title XII, of a plan for submission to the Secretary assuring an operational system for providing emergency medical services during mass casualties, natural disasters, or national emergencies.

Clause (10) of new section 1203.—Requires the plan to provide for the transfer to facilities and programs providing necessary followup care and vocational rehabilitation for the maximum recovery and restoration of the patient.

Clause (11) of new section 1203.—Requires the plan to provide for a program of public education and information, stressing that this must include the dissemination of information regarding appropriate methods of medical self-help and first-aid, as well as the availability of first-aid training programs.

Clause (12) of new section 1203.—Requires the plan to provide for a periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency medical services provided in the area, to be measured in terms of national norms and standards established by the Secretary in rules made on the record after opportunity for a hearing in accordance with provisions regarding rulemaking prescribed in the Administrative Procedure Act (APA) (5 U.S.C. §§ 551–59).

Clause (13) of new section 1203.—Requires the plan to provide for a standardized patient record-keeping system covering the treatment of the patient from initial entry into the system all the way through to discharge from the system, to be consistent with ensuing patient records used in followup treatment as well as in the rehabilitation of the patient. The clause further provides for a waiver of the consistency requirement where the grantee subsequently clearly demonstrates the infeasibility of immediately achieving such consistency.

New section 1204 of the new title. Subsection (a).—Provides that the composition of the Area Emergency Medical Services Planning Council established in connection with the plan submitted under new section 1203 shall include representatives of the State and appropriate areawide health planning agencies, of the Regional Medical Programs established under title IX, of public safety agencies, hospital councils, public, voluntary, and nonprofit private agencies, institutions, and organizations concerned with health or health education, local government or units of local government exercising jurisdiction in the area, VA and other Federal agencies operating medical installations in the area, communications networks, mass media and public utilities serving the area, and firms, organizations and other entities having responsibilities related to the provision of emergency medical services, and consumers who shall comprise at least one-third of the voting membership of the Council. The new section provides that, to the maximum extent feasible, representatives of providers shall be selected so as to represent professional, paraprofessional, and nonprofessional personnel, and that representatives of the general public shall be selected so as to represent all significant segments of the population to be served.

Subsection (b) of new section 1204.—States that the functions of the Council shall include the development, in consultation with the congruent 314(b) agencies, if any, of the plan for an emergency medical services system required under new section 1203 and also the continuous monitoring and evaluation of the operation of the emergency medical services system with a view to making recommendations for the improved effectiveness of its operation.

Subsection (c) of new section 1204.—Authorizes the Council to delegate part or all of its functions and responsibilities to a subgroup which must be representative of the Council's membership. Subsection (c) also provides that meetings of the Council and subgroups of the Council shall be open to the public and that the public (including all those eligible for membership) shall be advised reasonably in advance of such meeting.

New section 1205 of the new title. Subsection (a).—Establishes an Interagency Technical Committee on Emergency Medical Services, and specifies that the responsibilities of the Committee shall include the coordination of Federal programs relating to emergency medical services to assure their adequacy and technical soundness and to provide for the exchange of information necessary to maintain the coordination and effectiveness of these programs. The Section designates the Secretary of HEW as Chairman of the Committee and specifies that representatives of all Federal agencies, and parts of such agencies (including components of HEW), which the Secretary determines administer programs directly affecting emergency medical services functions or responsibilities, shall be members of the Committee. The section requires the Committee to meet at the call of the Chairman, not less often than four times a year.

Subsection (b) of new section 1205.—Authorizes the Secretary of each military department to enter into agreements with emergency medical services systems (as is presently done under the MAST program) to provide transportation and other services in emergency situations where it will not interfere with the primary mission of such military department.

New Section 1206 of the new title. Subsection (a).—Directs the President to establish a National Emergency Medical Services Advisory Council, and specifies that the Council shall consist of the Secretary of HEW or his designee, the Director of the National Institutes of Health, and the Administrator of the Health Services and Mental Health Administration, in HEW, all members of the Interagency Technical Committee established by section 1205, and fifteen members, appointed by the President, of whom seven must be representatives of the general public and eight individuals experienced in the provision or development of, or training of personnel for, emergency medical services systems. The subsection specifies that the President will designate one of the appointive members as Chairman of the Council and that the ex officio members shall be non-voting members.

Subsection (b) of new section 1206.—Specifies that the functions of the Council shall be to advise, consult with, and make recommendations to, the Secretary on applications received for grants and contracts in excess of $35,000 under the new title XII (in the same way as peer review panels operate for NIH institutes), and to make recommendations to the Secretary with respect to carrying out all provisions of the new title, including prior opportunity to review and comment on proposed regulations and guidelines and preparation and review (including agency appeal) of the budget estimate for the program established under the new title. The Council's function shall also include the collection, analysis, and dissemination of all data useful in the development of area emergency medical services systems, including the establishment of a national data bank to utilize information resulting from the operation of emergency medical services systems developed with assistance under the new title.

Subsection (c) of the new section 1206.—Sets the term of each appointed member at four years, except in the case of a member appointed to fill a vacancy occurring prior to the expiration of the term for which his predecessor was appointed, and permits the terms of the initial appointees to be staggered. The subsection specifies that the initial terms of the appointed members representing the general public must be at least three years.

Subsection (d) of new section 1206.—Specifies that nine voting members of the Council shall constitute a quorum for the purpose of making recommendations pursuant to subsection (b) of new section 1206.

Subsection (e) of new section 1206.—Authorizes appropriate travel and a GS–18 rate of per diem compensation for members of the Council who are not officers or employees of the Federal Government.

Subsection (f) of new section 1206.—Requires the Secretary to provide necessary support and staff to the Council.

Subsection (g) of new section 1206.—Re-

quires the Council to meet no less often than four times each year.

New section 1207 of the new title. Subsection (a).—Authorizes the Secretary to make grants to or contracts with public or private nonprofit entities, or contracts with private entities, for the support of research in emergency medicine techniques, methods, devices, and delivery to be carried out in conjunction with the implementation of a plan submitted in accordance with new section 1203.

Subsection (b) of new section 1207.—Authorizes the appropriation of $5,000,000 each for fiscal year 1974 and the two succeeding fiscal years to carry out such research activities.

New section 1208 of the new title.—Prohibits the approval of a grant or contract under the new title unless the appropriate 314(a) and 314(b) agencies have had an opportunity to comment on the application and the applicant has submitted to the Secretary a reply to any such comments with a view toward accommodating any objections and remedying any differences. The new section also requires the applicant to maintain such records and reports as the Secretary determines necessary and requires the application to be submitted in a form meeting specified requirements and to include a description of any restrictions of the law in the area with respect to the full utilization of the training and skills of professional and paraprofessional personnel in the provision of comprehensive emergency medical services.

Section 1209 of the new title. Subsection (a).—Authorizes payments of grants in advance or in such installments and on such conditions as the Secretary determines will most effectively carry out the provisions of the new title.

Subsection (b) of new section 1209.—Permits contracts to be entered into without regard to section 3648 and 3709 of the Revised Statutes (regarding prohibition of advance payments and requirement of advertising for proposals).

Subsection (c) of new section 1209.—Requires that all components of an emergency medical services system supported under the new title must meet standards and criteria established by the Secretary in regulations, after taking into account standards established by appropriate national professional or technical organizations. The establishment of such standards and criteria must be in accordance with all provisions regarding rulemaking as prescribed in the APA. The subsection also permits the Secretary, where an applicant has demonstrated that all components of its emergency medical services system cannot meet immediately the standards and criteria prescribed, to make a grant or contract if the applicant provides reasonable assurance that each noncomplying component of the proposed system will meet such standards within one year of the receipt of assistance under the new title.

Subsection (d) of new section 1209.—Requires the submission of the reports of independent reviews and evaluations, carried out pursuant to the plan, to the appropriate Area Emergency Medical Services Planning Council, to the National Emergency Medical Services Advisory Council, and to the Secretary.

Subsection (e) of new section 1209.—Provides that, notwithstanding any other provision of law, except as provided in subsections (f) and (g) of new section 1209, unless enacted in express limitation of this subsection, no payments in connection with the development or maintenance of emergency medical services systems (or components of such systems) may be made except in connection with a system approved for the receipt of assistance under new section 1202.

Subsection (f) of new section 1209.—Provides that no new grants or contracts for the development or expansion of or research in connection with emergency medical services systems (or components of such systems) may be made from funds appropriated under any authority other than the new title XII (1) if grants or contracts for such purposes are authorized by the new title XII and (2) if all funds authorized to be appropriated under the new title XII have not been appropriated or if all such authorized and appropriated funds have not been obligated. This provision is derived from and carries out the same purposes as subsections (f) of sections 317 and 318 of the PHS Act. The subsection also provides that where all funds authorized under the new title XII have not been appropriated and obligated, the Secretary is authorized notwithstanding any other law to expend funds appropriated under authority of any other such law for the development or expansion of systems, but to do so only in accordance with all the provisions, limitations, and restrictions of the new title XII.

Subsection (g) of new section 1209.—Provides that nothing in the proposed title XII shall limit or restrict the continuation of grants and contracts under other provisions of law for the conduct of emergency medical transportation and services programs as long as such funds are used in connection with a system approved for the receipt of assistance under the new title and such programs and their components meet all standards and criteria established by the Secretary under the new title.

Subsection (h) of new section 1209.—Defines State to include Guam, American Samoa, and the Trust Territory of the Pacific Islands in addition to those jurisdictions included in the basic definition in section 2(f) of the Public Health Service Act. The subsection also defines the term "modernization" to mean "alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings", which does not include "replacement" as does section 645 of the Public Health Service Act (Hill-Burton) from which this definition is derived.

Section 1210 of the new title.—Requires the Secretary to submit to the Congress annually a report on the administration of the new title XII to include an evaluation of the adequacy of the provision of emergency medical services nationally, a study to determine the legal barriers to the effective provision of medical care in emergency situations, and the extent to which needs for services are met under provisions of the new title and recommendations for legislation necessary to provide emergency medical services nationally at a level adequate to meet such needs.

Section 3. Subsection (a).—Amends Section 2 of the Public Health Service Act to include the new title XII within the Public Health Service Act.

Subsection (b) of section 3.—Amends section 772(a) of the Public Health Service Act to specify programs and projects in the interdisciplinary training of health personnel for the provision of emergency medical services, especially those utilizing clinical experience in emergency medical services systems receiving assistance under the proposed title XII, as among those programs eligible for project grant assistance under the authorities of that section.

Subsection (c) of section 3.—Amends section 774(a)(1)(D) of the Public Health Service Act to specify emergency medical services as among those health services for which new or effective approaches to organization and delivery can be encouraged through health manpower initiative awared grants to train individuals in the use of the team approach.

Section 4.—Clarifies as a matter of conflicts of laws that the law of the jurisdiction where a person providing emergency medical services resides or practices governs the provision by such person of services in the course of a journey by common carrier crossing state boundaries. This provision has been informally discussed with staff of the Commerce Committee.

CONCLUSION

Mr. CRANSTON. Mr President, adoption of S. 504 will enable the Nation's communities to meet the great need of providing adequate and immediate care to victims of accident and sudden illness. It will help prevent the avoidable tragedies of long-term disabilities or death which too often result from inadequate care at the time of the emergency.

I urge the full support of the Senate for S. 504.

I would like again to express my admiration and thanks 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). As I have stressed, the distinguished Senator from Colorado (Mr. DOMINICK) and the Senator from Maryland (Mr. BEALL) were of great assistance in the final development of the bill's provisions.

I would also like to express my deep appreciation for the excellent assistance provided by the staff of the Labor and Public Welfare Committee, Willie Shawcross and LeRoy Goldman, for Senator Kennedy, Jay Cutler, Chuck Woodruff, and Joe Carter, for the minority, and Louise Ringwalt and Jon Steinberg assisting me, in the development of this very urgently needed bill.

I look forward to working with my colleagues in the other body to accommodate our differences and send a first-rate bill to the President in the near future.

Mr. MAGNUSON. Mr. President, at this time I send to the desk a modification of my amendment No. 120 and ask that the amendment—as modified—be considered immediately.

Mr. President, I offer this amendment for myself and on behalf of the distinguished chairman of the Health Subcommittee (Mr. KENNEDY), the distinguished author of the bill now before us, the Senator from California (Mr. CRANSTON); the distinguished chairman of the Labor and Public Welfare Committee, the Senator from New Jersey (Mr. WILLIAMS); the distinguished ranking minority member of the Labor and Public Welfare Committee, the Senator from New York (Mr. JAVITS); my distinguished colleague from Washington, the junior Senator from Washington (Mr. JACKSON); the distinguished Senators from Louisiana (Mr. LONG and Mr. JOHNSTON); the distinguished Senators from Texas (Mr. TOWER and Mr. BENTSEN); the distinguished Senators from Maryland (Mr. BEALL and Mr. MATHIAS); the distinguished Senator from Massachusetts (Mr. BROOKE); the distinguished Senator from Alabama (Mr. SPARKMAN); and the distinguished Senator from California (Mr. TUNNEY).

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk proceeded to state the amendment.

Mr. MAGNUSON. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

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

The amendment is as follows:

At the end of the committee amendment add the following:

CONTINUED OPERATION OF CERTAIN PUBLIC HEALTH SERVICE HOSPITALS

SEC. 5. (a) The Secretary of Health, Education, and Welfare is directed to take such action as may be necessary to assure that the Public Health Service Hospitals which are located in Seattle, Washington; Boston, Massachusetts; San Francisco, California; Galveston, Texas; New Orleans, Louisiana; Baltimore, Maryland; and Staten Island, New York; shall, until such time as the Congress shall by law otherwise provide, continue in operation as Public Health Service Hospitals and continue to provide inpatient and other health care services to all categories of individuals entitled, or authorized, to receive care and treatment at hospitals or other stations of the Public Health Service, in like manner as such services were provided to such categories of individuals at such hospitals on January 1, 1973.

(b) It is the policy of the Congress that such Public Health Service Hospitals shall (except as may otherwise hereafter be authorized or required by the Congress)—

(1) continue to provide, for categories of individuals for which health care services were provided (or authorized to be provided) by such hospitals on January 1, 1973, a level and range of inpatient, outpatient, and other health-care services which is at least as great as the level and range of such services which were provided (or authorized to be provided) by such hospitals on January 1, 1973, and

(2) continue to conduct a level and range of other health-related activities (including, but not limited to, training and research activities) which is not less than the level and range of such activities which were being conducted on January 1, 1973.

(c) (1) It shall be the duty of the Secretary of Health, Education, and Welfare, in the administration of any and all laws with respect to which he has responsibility, to carry out the provisions of subsections (a) and (b) and he shall take no action (other than action required pursuant to a law enacted after the date of enactment of this Act) inconsistent with such provisions.

(2) Funds appropriated to carry out any activity in furtherance of the provisions of subsections (a) and (b) shall, to the extent necessary to carry out such provisions, be utilized to carry out such activity; and the President shall have no authority to, and shall not, impound or withhold any such funds; except that nothing in this paragraph shall be construed to require the President or the Secretary of Health, Education, and Welfare to expend funds in excess of the maximum amounts which can effectively be utilized in carrying out such provisions.

(d) Nothing in this section shall be construed as authorizing or requiring the conduct of any activity which is not authorized under other provisions of law, nor as an authorization for the appropriation of any funds.

(e) (1) Section 3(b)(2) of the Emergency Health Personnel Act Amendments of 1972 (86 Stat. 1290) is amended by striking the words "Comments (if any)" and inserting in lieu thereof the words "approval of such closing or transfer".

(2) Such section is further amended by striking the comma at the end of paragraph (B) and inserting in lieu thereof a period and by striking the words "after the Secretary has provided each such agency a reasonable opportunity to review and comment on the proposed closing or transfer".

(3) Nothing in this subsection shall be construed as relieving the Secretary of Health, Education, and Welfare from fulfilling any other requirements of this section.

Mr. MAGNUSON. Mr. President, this amendment would not create any new programs, and it would not impose any new burden on the budget. Its only purpose is to keep open the Public Health Service hospitals in Seattle, San Francisco, Galveston, New Orleans, Baltimore, Staten Island, and Boston, Mass., until such time as the Congress authorizes their closure. The Department of Health, Education, and Welfare, of course, has announced that it will close the Seattle, San Francisco, Galveston, New Orleans, Baltimore, and Boston hospitals this summer. Additionally, it intends to close the hospitals in New York and Norfolk soon thereafter.

WHAT THE AMENDMENT WOULD REQUIRE

Our amendment would impose four requirements on HEW:

First, it would require the Department to continue operating the hospitals in question until such time as the Congress, by law, authorizes their closure or transfer to community use.

Second, until the Congress authorized otherwise, it would require the hospitals to continue serving all categories of patients who were eligible for care on January 1 of this year.

Third, until the Congress authorized otherwise, it would require the hospitals to continue providing a level and range of health care services and health-related activities at least as great as they were on January 1.

Fourth, and finally, it would direct the executive branch to spend all funds appropriated for these hospitals unless the other requirements of the amendment could be met with smaller expenditures.

PLANS REQUIRED BY PUBLIC LAW 92–585

Mr. President, in late 1970, the administration first suggested that the eight PHS hospitals be closed or transferred to community use. Last year, Congress enacted Public Law 92–585 which required that before HEW could close any PHS hospital it had to submit to Congress detailed plans showing how the hospital's responsibilities would be met if any of the hospitals were closed. The law required that those plans be sent to us at least 90 days before the proposed closure or transfer. The purpose of those requirements, of course, was to give Congress an opportunity to study the plans and to take appropriate action to keep the hospitals open if the plans were not satisfactory.

On March 28 we received HEW's plans for closing, this July, the PHS hospitals in Seattle, San Francisco, Galveston, New Orleans, Baltimore, and Boston. Also, at that time HEW indicated it intends to submit similar plans soon for the Norfolk and Staten Island hospitals.

As I shall discuss in a few moments, the plans submitted on March 28 are seriously deficient.

But before I get into the specific problems of those plans, I want to comment on the two basic arguments advanced by HEW to justify closing them. Specifically, HEW maintains first, that PHS beneficiaries will be better served by its proposals, and second, that the Federal Government will save money.

COURT ACTION BY BENEFICIARY GROUPS

With respect to the first argument, I would simply point out that beneficiary groups have filed suit in Federal court in both New York and Seattle to keep the PHS hospitals open. Obviously, then, they do not feel they would be better served under HEW's proposals.

FEDERAL GOVERNMENT WILL NOT SAVE MONEY

Now, let us look at the cost argument. According to HEW's own figures, it would cost the Federal Government $99.1 million in fiscal year 1974 operating costs to continue the six PHS hospitals it has announced it plans to close this July. Under its plan, according to HEW, the total fiscal year 1974 operating cost would be $107.5 million. In other words, the Federal Government will have to pay $8.4 million more in fiscal year 1974 operating costs if the hospitals are closed.

Also, according to HEW's figures, the Federal Government will have to pay $7.3 million in nonreoccurring costs in fiscal year 1974 to phase-out the hospital staffs. This $7.3 million would be used for such expenses as severance pay.

In other words, the total fiscal year 1974 Federal cost of HEW's plan for closing the six hospitals will be $114.8 million. That is $15.7 million more than it would cost to continue operating the hospitals.

Now, it is true that these hospitals do need major repairs. HEW estimates the repair cost would be $36.3 million. There are other figures that are lower; but it will cost something. However, it is the $36.3 million to which HEW points to prove that it will be cheaper to close the hospitals.

But remember that the annual operating cost of HEW's proposals will be about $8.4 million higher each year than would be the annual operating cost of continuing the six PHS hospitals. Over 5 years, then, the savings in operating costs which would be accumulated by keeping the hospitals open would pay for the one-time repair cost of $36.3 million.

In the long run, then, the Federal Government will not save any money at all by closing these hospitals.

THE PROBLEMS WITH HEW'S PLANS

Mr. President, important as it is, direct patient care is only one of the functions served by the PHS hospitals. They are also involved in health manpower training, research, and community health programs. According to the plans submitted by HEW on March 28 for the hospitals in Seattle, San Francisco, Galveston, New Orleans, Baltimore, and Boston, research that requires inpatient care will be terminated and manpower training programs will be ended.

Taken together, the hospitals covered by our amendment are now providing essential educational opportunities for more than 1,600 persons training for the health professions. For example, one-fourth—or about 200 students—of the University of Washington Medical School's enrollment is in training at the Seattle PHS hospital along with more than 300 others studying for a variety of health careers. Elimination of those training opportunities could well force the University of Washington and other

schools in the area to severely cut back their health science enrollments. At a time when the Nation has such serious health manpower shortages I believe it is imperative that we not eliminate available training opportunities such as these.

HEW's plans pose similarly difficult problems with respect to the community health programs now served by these PHS hospitals. In New Orleans, for example, inpatients will no longer be accepted from the model city family health clinics and HEW's plan makes no provision for an alternative source of care. In San Francisco, a PHS hospital program that now provides psychiatric services for those in the community will be terminated without alternative arrangements.

In many other cases, HEW's plan vaguely indicates that these community programs will have other sources of assistance available but does not provide any real evidence to demonstrate that will, in fact, be the case.

The Seattle hospital, for example, currently provides essential supportive services—X-ray, lab tests, and so forth—for a network of 17 community clinics that are staffed free of charge by doctors to provide free care to medical indigents, HEW's plan boldly asserts that similar support services will be provided elsewhere in the community but gives absolutely no evidence to prove that will, in fact, be possible.

The most serious problems with HEW's plans, however, are their deficiencies with respect to the arrangements that will be available for those who now received direct in-patient care at the PHS hospitals. Let me illustrate this point by using the Seattle situation as an example.

In fiscal year 1972 the Seattle PHS Hospital cared for 4,842 in-patients including about 1,100 merchant seamen—this is what these hospitals were established to do years ago when the Congress created them—over 2,000 active or retired military personnel and dependents, 550 Indians—the only Indian clinic anywhere near the area—87 persons referred by the free community clinics, and several hundred civilian Federal employees.

HEW proposes to contract with local hospitals to care for the seamen and other primary beneficiaries. Yet now, just a few weeks before the PHS hospital is to be closed, HEW has not yet negotiated a single contract with any community hospital, Military personnel, HEW says, are to be referred to military hospitals. However, the Department's plan gives no details as to which military hospitals.

More important, the plan gives no proof that the military facilities in the Seattle area have the capacity to handle these patients. This is especially disturbing in light of information that the Madigan Army Medical Center at Ft. Lewis is currently undergoing major staff reductions. Finally, HEW's plan provides no hard information at all as to where the medical indigents will receive hospitalization.

In sum, HEW is asking us and the PHS beneficiaries to trade a health care system we know is working for a package of extremely vague paper proposals. And that, to we, Mr. President, is just not acceptable.

Mr. JAVITS. Mr. President, will the Senator yield?

Mr. MAGNUSON. I yield.

Mr. JAVITS. Mr. President, I wish to state to the Senator my great appreciation, on behalf of my State, for his allowing me to join with him in this amendment, and for including Staten Island, N.Y. He has depicted the situation most accurately, and there are many, many Americans who are grateful for the amendment and for the spirit in which he has put it forth.

Mr. MAGNUSON. In New York, and I am sure it is true in the Chesapeake Bay area as well, the military hospitals are chuck-a-luck full, and they have waiting lines. When HEW says military facilities are available to take care of those served by the PHS hospitals, that is utter nonsense. Moreover, the PHS hospitals are doing it cheaper than if we try to take care of these people somewhere else.

Mr. JAVITS. I thank the Senator.

Mr. MAGNUSON. Mr. President, I yield the floor.

Mr. BEALL. Mr. President, I, too, would like to thank the Senator from Washington for taking the initiative, in this instance, to propose this amendment, and allowing me to become a cosponsor.

I had the good fortune, last Friday, to visit the Public Health Service hospital in Baltimore and see what impact this proposal was having on that institution.

I not only came away with the impression that it was inadvisable, but was impressed with what appeared to be a rather callous insensitivity to the needs of the community in proposing that these hospitals be eliminated so abruptly as of the end of June.

I found, in talking with the administrators of the hospital, that no provision had been made for any sort of transition, but that the only information that the people at the hospital had was the same announcement from HEW that the services were to be terminated as of the 30th of June, and they have received nothing from them since as to how medical service is to be provided in the future, is what is to happen to the facilities.

The consequences in Baltimore are immense, as I am sure they are elsewhere around the country. In Baltimore, for example, one whole floor of the Public Health Service hospital is occupied by the Baltimore Center for Cancer Research. That is an organization that operates under the National Cancer Institute at Bethesda, and is performing some of the most unique and valuable cancer research going on in the United States today. It must operate somewhere, but no one knows where. They must operate in conjunction with hospitals, where they have X-ray and other facilities available, and in conjunction with a surgery department.

Mr. MAGNUSON. And they have for a long time, as I understand, been working with the fine research institution at Johns Hopkins; they work together.

Mr. BEALL. That is correct.

Mr. MAGNUSON. And many medical schools very much deplore this situation, because they are using these PHS hospitals for very valuable purposes in research, as well as in taking care of Indians, merchant mariners, and many, many others.

Mr. BEALL. This Baltimore Research Center is getting patients from all over the country. They have been doing great work in trying to bring about remission in cases of leukemia. I also found there was a brand new dental clinic in the hospital, and one of the best examples of multiphasic screening in operation anywhere. Here, in this Public Health Service facility, they are providing the kind of screening of patients in advance of their illness that truly cuts down on admissions of patients to the hospital and on the total cost of care.

I think the Senator from Washington is to be commended, and that a lot more thought has to go into the phasing out of the Public Health Service hospitals than HEW has been giving it to date.

Mr. KENNEDY. Mr. President, just briefly, I support the amendment. We have indicated that what we are interested in are three things: First, to be assured that those actually using the hospitals in the Public Health Service would be adequately provided for; second, that information would be available on the variations in cost with respect to the closing or transferring of the hospitals and what it would cost to develop new arrangements to provide for the beneficiaries; and, third, we wanted to give an input to the local planning agencies and the State planning agencies in the development of those plans. Tragically, none of these requirements established by the Congress was adequately complied with by the administration under the provisions of Public Law 92–585. Therefore, we are in the situation today where we have to take this rather dramatic step to insure that the beneficiaries will be accorded those benefits which are theirs under Federal law.

It seems to me that the result of this amendment will be to produce affirmative action on the part of the administration. It is a constructive effort by the Senator from Washington (Mr. MAGNUSON), and I join him as a cosponsor.

I am happy to accept the amendment.

Now, Mr. President, as I have said I would like to offer my support for the amendment proposed by Senator MAGNUSON, which will require that the eight Public Health Service hospitals be kept in operation under the Public Health Service until such time as the Congress may take affirmative action to provide otherwise.

Last year, the Senate passed, and the President signed into law, Public Law 92–585, which laid down conditions for the closure or transfer of Public Health Service hospitals and clinics. These conditions require that the Secretary transmit

to Congress an explanation of his proposal which contains:

First, assurances that beneficiaries of the hospitals would be provided equivalent care under any new arrangement;

Second, an estimate of the cost of providing such care, and

Third, the comments of State and local planning agencies on these plans.

The Secretary of Health, Education, and Welfare forwarded explanations of his plans for the eight hospitals to Congress on March 30 of this year. These plans are disastrously lacking with respect to the requirements of the law.

First, they do not assure equivalent care to beneficiaries. They do include what amounts to little more than a cursory survey of bed availability in the communities affected; but they do not include assurances by other institutions that they will assume the burden of providing inpatient care to beneficiaries. Nor do they include any details on how this inpatient care could be offered to meet some of the unique requirements of merchant seamen and other beneficiaries. It would be irresponsible for either the administration or the Congress to approve of new systems for offering health care to these Federal beneficiaries without assurances that the care rendered is equivalent to that currently being offered in the eight Public Health Service hospitals.

With respect to costs, the Department of Health, Education, and Welfare proposal indicates amazingly enough that the proposed new system will have higher operating costs than the current system. They point out that the new proposal will save modernization and construction funds in the short term, but this $45 million savings would be offset in 6 years of operation, and thereafter the new proposal would cost the Federal Government upward of $8 million more per year than the present system. To say the very least, cost is not the major issue in this proposal, and there is no urgency to rush into new arrangements based on cost. That being the case, Department of Health, Education, and Welfare and the Congress should take the time necessary to produce plans which offer every assurance to beneficiaries and the communities involved that their interests are served by the proposed changes.

Finally, the Department of Health, Education, and Welfare explanation of their plans do not contain the comment of State and local health planning agencies on the plans. In fact, the planning agencies never saw Health, Education, and Welfare plans. What they did see was a 3-page letter outlining in general terms the basic policies behind the plan, with no specific indication of what hospitals in their area would be used to care for beneficiaries in lieu of the PHS hospital, or what specific arrangements would be made with these hospitals to assure "equivalent care." Moreover, the letter specifically indicated that the disposition of the PHS facility itself would be left to future determination. This letter, moreover, was forwarded to the planning agencies on February 9, with a deadline for comments of February 23. Mr. President, it is impossible for a health planning agency to evaluate a proposal of this kind without even knowing what community facilities Department of Health, Education, and Welfare intends use to implement their plan. Moreover, since these agencies are concerned with the number and use of health care resources in the community, it is impossible for them to evaluate a plan without an indication of what use will be made of the public health service facility itself. Most of the planning agencies' comments note this impossibility and disapprove of HEW's proposals.

They also point out in several cases, that even if they had been given adequate information on the basis of which to offer their opinion, they could not have done so within the terribly tight timeframe that HEW allowed them.

Mr. President, it is my view that HEW has not met the requirements of Public Law 92–585. It is also my view that Congress cannot responsibly watch steps taken to close or transfer these eight Public Health Service Hospitals without assuring that the legitimate interests of both the Federal beneficiaries and the communities involved are served by these actions. The transfer of all inpatient services to other facilities is clearly the first step in such closing or transfer, and commits the Federal Government to ultimately closing or transferring the facility. Therefore, we should not permit this first step to be taken in July as the Department of Health, Education, and Welfare proposes.

Senator MAGNUSON's amendment prohibits this action. It amends Public Law 92–585 to require that the approval, and not just the comment, of State and local planning agencies must be included in HEW proposals to close or transfer the facility. The Federal Government requires such approval by State and local health planning agencies as a condition of hospitals' participation in medicare and medicaid, and it only stands to reason that the community should have the same safeguards of their health care system when it comes to use of these PHS hospitals in their area.

I urge my colleagues to support this amendment.

Mr. CRANSTON. Mr. President, I am delighted to join the Senator from Washington as a cosponsor of the amendment. It is unfortunate that the amendment is necessary. It is necessary only because of the attitude of the administration and HEW in failing to recognize the importance of the work being done and essential services being provided by the Public Health Service hospitals. There is one such PHS hospital at San Francisco which has been placed in jeopardy for the same reasons that have concerned the Senator from Washington in his State and the others who have spoken regarding their States.

Mr. President, until I am assured that the beneficiaries of the Public Health Service hospitals can count on receiving health care when they need it and at a high level of care. I believe it is wrong to close down these facilities which have been providing adequate health care for these beneficiaries.

I hope that no Senator will vote against S. 504 just because of this amendment. The amendment is, regrettably, necessary due to the intransigence of the administration on this point.

The bill has virtually overwhelming, almost unanimous support. I hope that the fact we are proceeding with this amendment may persuade the administration to adopt a more sensible approach to the problem and that the matter can be resolved by the time the bill is in conference so that perhaps it may not be necessary to keep the amendment in the bill at that time.

Mr. MAGNUSON. May I ask the distinguished authors of the bill to which this amendment is offered—the Emergency Medical Services Act—whether I may be added as a cosponsor of it?

Mr. KENNEDY. Of course. Mr. President, I ask unanimous consent that the name of the Senator from Washington (Mr. MAGNUSON) be added as a cosponsor of the original bill.

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

Mr. MATHIAS. Mr. President, I am pleased to be a cosponsor of amendment No. 120 which will require the Department of Health, Education, and Welfare to continue operating the Baltimore PHS hospital until such time in the future as the Congress might, by law, authorize its closure. On April 17, 1973, I testified before the House Merchant Marine and Fisheries Committee and set forth at that time some of my principle concerns about the fate of our PHS hospitals and clinics. At the conclusion of my remarks today, I shall request unanimous consent that my testimony before the House committee be inserted in the RECORD. Today, however, I would like to discuss one aspect of the Wyman Park PHS Hospital that should be of deep concern to us all. I am referring to the Cancer Research Center.

In 1971, the Congress passed legislation that committed the United States to an all out effort to control cancer.

Named the National Cancer Control Act of 1971—Public Law 92–218—the law was designed to find a cure to the disease that each year kills 350,000 Americans.

The President, in signing the bill, enthusiastically predicted that the cancer bill would promote "the largest attack against a single disease in the history of man."

The legislation sets up a wide range of intensified research, training, and cancer health care programs to deal with the national problem of cancer. It provides a $400 million authorization in its first year and increases the authorization to $600 million a year in the third year. All of these efforts were designed to achieve a maximum effort to overcome cancer.

In addition, each April, beginning in 1972, was to be designated by the President as "Cancer Control Month," in which the United States would rededicate itself to the fight against cancer.

On March 28, 1973, on the eve of the

1973 "Conquer Cancer" month, the war on cancer in the United States was dealt a severe blow. On that date the Department of Health, Education, and Welfare announced that the eight Public Health hospitals, including the Baltimore PHS facility, were to cease new admissions by late summer and close entirely before the end of 1973.

Among the facilities that would be effected by this plan is the Cancer Research Clinic, at the Baltimore PHS Hospital in Maryland. This facility is an active and vital part of the ongoing war against cancer in the United States.

While the many projects and programs envisioned by the Cancer Act of 1971 remain to be implemented, the Baltimore Cancer Clinic is in operation, researching cancer and curing those afflicted with this disease.

The Cancer Research Center at the Baltimore PHS Hospital is run jointly by the Health Services and Mental Health Administration and the National Institutes of Health.

The center uses 45 beds of the facility to provide care to patients suffering from certain types of malignant growths.

The center can provide this care to patients at a cost far below that of private hospitals. Care at the cancer center only costs about $100 a day, including professional services. This is far below the cost for cancer care in private hospitals, where this type service is often the most expensive of all treatment. One of the reasons the cancer center can offer such low cost care is that it operates as a part of the Baltimore PHS Hospital, itself a very low cost hospital.

Forty percent of the cancer clinic's patients are from Maryland. Most are from within a 100-mile radius of Baltimore. However, the clinic receives patients from all over the country, including merchant seamen and coast guardsmen.

In the words of the Cancer Act passed in 1971, this facility "expeditiously utilized existing research facilities and personnel of the NIH for accelerated exploration of opportunities of special promise."

The clinic uses its facilities to treat special types of cancer malignancies. It carries out laboratory programs in drug research, biochemistry, and immunology, seeking basic information on the problem of cancer and its control. There are currently 62 research projects underway at the Center.

The cancer facility operates on a budget of $4.5 million a year. The beds at this facility represent almost one third of the cancer beds maintained by the National Cancer Institute.

This vital facility would be lost to the city of Baltimore and possibly to the entire Nation, should the Department of HEW succeed in its plan to phase out the PHS facilities.

The Department's plan, which has been presented a number of times since 1970, and rejected each time, would leave the cancer clinic without definite guarantees that it would be continued.

All the Department will say in its "phase out plan" is that "negotiations are underway," telling us nothing about the adequacy or type of arrangements being negotiated.

Both the Baltimore City and Maryland State health planning agencies have expressed their concerns about HEW's plans to close or move this indispensible health clinic.

In the Department of HEW's phaseout plan, presented to Congress, the Baltimore Regional Health Planning Agency states:

We assume the Cancer Research Center will be closed down and its resources scattered. No other organized unit exists with the capacity to maintain the diagnostic and care services for this added volume.

The Maryland Comprehensive Health Planning Agency concurred in this report, when it noted that—

The sizable cancer research program conducted at the Hospital would also be closed down, leaving many terminal cancer patients with no comparable care available.

These and other reactions by the Maryland Health community evidence the concern in the State over the closure of the Baltimore PHS Hospital's cancer clinic.

The clinic is an ongoing, functioning, and valuable part of the Nation's fight against cancer. To close this clinic or to fragment it around the Nation, at a time when the country is tooling up to fight this dread disease, is a cruel hoax on the hopes of millions of Americans who want to see cancer conquered.

The latest HEW plan to close the PHS facilities, including the cancer clinic, represents a hasty ill-conceived solution to the need for better medical service in the United States.

In view of the harm this phaseout plan will cause this State and the entire Nation, the proposal should be rejected and the PHS facilities retained under Federal control until such time in the future as the Congress, by law, authorizes further disposition.

I ask unanimous consent that my testimony before the committee be printed in the RECORD.

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

STATEMENT OF THE HONORABLE CHARLES McC. MATHIAS, JR.

Mr. Chairman, I wish to express my appreciation to you and the members of this Committee for holding hearings on the vital question of the fate of our Nation's Public Health Service Hospitals and clinics. I am sure that you share with me the sense of urgency over the disposition of these important health resources.

On February 15, 1972, I wrote to the Secretary of HEW requesting information about the current status of the Public Health Service Hospitals, particularly the Wyman Park Public Health Service Hospital located in the city of Baltimore. This hospital, as I am sure you know, for years has been providing medical care to patients from all over the State of Maryland. In less than two weeks, February 24, 1972, I received a reply. I quote:

"As you may know, it is our goal to convert the PHS hospitals to community use as soon as feasible. Our target is to accomplish this by June 30, 1973. . . . However, if in any instance we are not able to develop a feasible plan by that time, the status of the hospital will not be changed. We will continue to operate the facility as a Federal institution until we are able to develop a workable plan for its conversion to community use."

This is a case in which the Government of the United States has made a specific commitment to pursue an unmistakeably clear course of action with respect to the future disposition of the Public Health Service Hospitals. We were told that the status of the Wyman Park Public Health Service Hospital would not be altered until a "workable plan for its conversion to community use" is developed. But that was yesterday.

Today HEW plans to stop in-patient admissions at Wyman Park on July 21, relocate the Baltimore Cancer Research Center of the National Cancer Institute now located in the hospital to some yet undetermined university hospital in Baltimore and close down the hospital's operation as we now know them on September 30. And so I feel obliged to recall that government commitment of last year.

Mr. Chairman, the importance of this hospital to the State of Maryland should not be underestimated. The Wyman Park Public Health Service Hospital manages 4,000 admissions and 138,000 outpatient visits a year.

Wyman Park Hospital's primary mission is to provide comprehensive medical care to legal beneficiaries on an outpatient and/or inpatient basis. Non-legal beneficiaries are also cared for as "emergencies" and "special study" patients. Emergency cases include patients with heart attacks brought to this hospital by the Baltimore Fire Department ambulance and "overflow medical cases seen in the Emergency Rooms of five community hospitals."

Medically indicated care for patients is provided by a staff fully organized into twelve clinical departments, eight para-clinical departments and six administrative sections, all under the leadership of the Director of the hospital. In addition, a Dental Department provides indicated dental care, including oral surgery, to eligible outpatients and/or inpatients.

My understanding is that plans have been made to extend the comprehensive medical care facilities into the Homestead-Montebello area, in which there is a population of some 30,000 with no practicing physician, as an experimental module to study the problems involved in establishing heretofore non-existent health centers in such communities. Lacking official approval, implementation of the plans has not been possible to date.

Concurrent with the medical care program are fully accredited programs in training in the health care field and medical research. Training programs include residency training programs in seven medical specialties, dentistry, hospital pharmacy and hospital administration, fellowship training program in cardiovascular medicine, internship training program in medicine and in dentistry, medical student affiliation training programs with both the University of Maryland and the Johns Hopkins University, graduate nursing student training programs with the University of Maryland, nursing student affiliation training programs with both Catonsville and Baltimore Community Colleges, training of physician assistants, nurses' aid training program operated in conjunction with the Baltimore City Adult Education Division and physical therapy student affiliation training program with both the University of Pennsylvania and the University of Maryland. Moreover, there is a School for Medical Technologists and the only federally operated School for Medical Record Librarians is located in this hospital.

Second, the Baltimore Cancer Research Center of the National Cancer Institute is located in this hospital and conducts clinical evaluation on chemotherapeutic agents used singularly or in combination in certain malignancies. It carries out laboratory programs in drug research, biochemistry and

immunology seeking basic information on the problem of cancer and its control. The annual reports for FY 1972/73 lists 72 research projects being undertaken by the Baltimore Cancer Research Center.

I have also learned that the Cancer Research Center has purchased new modern radiotherapy equipment for the treatment of cancer patients worth several hundreds of thousands of dollars which is now idly resting in some warehouse or on some loading dock because of the uncertainty over the hospital's fate.

Mr. Chairman, I am sure that there are members of this Committee who are as concerned as I am by the problem of health care delivery. Today we need the spirit of compromise and disposition to consult with each other that must be the hallmark of the Congress's relationship with the Executive. Instead, we find ourselves confronted with budget proposals which turn out not to be proposals at all, but rather well conceived plans that are already being activated. Two years ago, when the Congress reviewed the matter of the transfer of these facilities, I introduced a bill for authorization and appropriation of the necessary funds to maintain operation of the PHS hospitals and clinics. In addition, I joined with my Senate colleagues in passing a resolution which, in brief, declared that the PHS Hospitals and clinics should continue in operation, pending a thorough study by Congress and the Administration of the present and potential future role of the facilities. We were successful then in persuading the Secretary of Health, Education and Welfare not to take any precipitous action which would deny the many citizens of this country, including many Marylanders who use these hospitals, proper health care.

I plan to join with other members in the Senate who will attempt to prevent the deprivation and disruption that the premature closing of these facilities might precipitate.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified, of the Senator from Washington (Mr. MAGNUSON).

The amendment, as modified, was agreed to.

The PRESIDING OFFICER (Mr. BIDEN). The question is on agreeing to the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

Mr. BUCKLEY. Mr. President, I must vote against this bill for the following reasons:

First. The delivery of emergency medical services is within the judicial competence of the several States.

Second. States wishing to increase the scope of the delivery of such services may utilize, if they choose, general revenue funds. I remind my colleagues that one of the arguments advanced in favor of general revenue sharing is that it would enable us to call to a halt the proliferation of grant-in-aid programs.

Third. The Federal Government does have a role to play in the case of major disasters. If existing disaster relief legislation is inadequate, in this respect, the Senate will shortly have the opportunity to correct those inadequacies in connection with the new disaster relief legislation now in preparation.

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.

Mr. DOMINICK. Mr. President, just for the record, I want to compliment the distinguished Senator from California (Mr. CRANSTON) on the emergency medical services bill. I am a cosponsor of this bill, and am happy to give it my support. I was concerned initially that several of its provisions would have duplicated existing authority, but those concerns were resolved through amendments adopted in committee.

I think the need for Federal assistance to develop emergency medical systems which will give everyone access to emergency care has been adequately demonstrated. This bill leaves the responsibility for planning and implementation of such systems where it ought to be—with people at the local level who are within the geographical area to be served by each plan. To insure integration with existing State health activities and planning, the appropriate areawide Comprehensive Health Planning Agencies will have the right to review and comment on each emergency medical plan before it is approved for funding.

This legislation will be particularly helpful in rural areas. There are many areas in Colorado where the nearest emergency facility of any kind is 50 or 60 miles away. No one needs to be reminded that the time it takes to travel that distance can be crucial. The emergency transportation and communications networks envisioned in this bill would help tremendously in these areas. The bill would also provide assistance for establishing emergency treatment facilities which would be accessible to everyone in the geographic area covered by each plan.

As I understand it, these facilities are not intended to be full-blown hospital-type emergency rooms, but would have the equipment and staff necessary to administer emergency care until the patient is moved to a hospital or trauma center. Such facilities can frequently be established through modernization of existing facilities, rather than new construction.

In addition to authorizing funds for purchase of helicopters, ambulances, and communications equipment, the bill would provide the Defense Department with the authority to expand its "MAST" program—military assistance to safety and traffic—beyond its present pilot project level. I think we should do all we can to encourage use of military equipment for such purposes, where it does not interfere with the mission of the military installation, and where the need is not being met by the private sector.

I would also like to see surplus military equipment such as helicopters and radios made available to States and localities for use in emergency medical plans. Colorado is fortunate to have a MAST project which, although it covers a relatively small portion of the State, has resulted in the saving of many lives. The best example I can think of involved a tragic high school bus accident on a mountain pass, about 200 miles from Denver, where the nearest adequate emergency facilities were located. Many of the occupants were killed or seriously injured, but physicians verified that several lives were saved by using MAST helicopters to transport the victims to Denver.

This legislation would make it possible to expand the MAST program, and to establish similar transportation programs so that fewer lives will be lost simply because the patient can not get emergency treatment soon enough. Senator CRANSTON should be commended for this hard work in developing this bill, and I urge my colleagues to support it.

Mr. HUMPHREY. Mr. President, after the passage of these three measures, I wanted to bring to the attention of the Senate and to the country through the journal known as the CONGRESSIONAL RECORD a number of statements that were presented today at a session of the Subcommittee on Consumer Economics of the Joint Economic Committee.

Today, I held hearings as chairman of that subcommittee on the subject of health costs or medical costs. We were privileged to have before us three outstanding witnesses.

One was Dr. John A. D. Cooper, president of the Association of American Medical Colleges. The second witness was Dr. Karen Davis, research associate of the Brookings Institution and assistant professor of economics at Rice University. The third witness was Dr. Alfred C. Neal, president of the Committee for Economic Development. The Committee for Economic Development is one of the few institutions outlining the overall strategy for providing health care.

These witnesses all directed their attention to the subject matter being discussed today in the Senate, in the HMO bill, in the legislation that we adopted for the health delivery system study, and also related evidence or testimony as to the emergency medical services that are required in our country.

I want to commend particularly to the attention of the Senate the statement by Dr. John A. D. Cooper on behalf of the Association of American Medical Colleges. It carries within it some of the most up-to-date material relating to the impact of the administration's budget for fiscal 1974 upon medical care and health services, and professional manpower in the health care field, and the so-called health delivery system and all the related activities associated with health care in America. The statement by Dr. Karen Davis is most enlightening. It describes the present health programs that we have and shows their inadequacies. It concentrates on the whole subject of the delivery of health services to the American people and the accessibility by the consumer to the services.

The statement made by Dr. Alfred C. Neal presents some of the proposals that have been advanced by the Committee for Economic Development. We are indebted to that committee for its foresight and its objectivity.

Mr. President, I ask unanimous consent that these three statements, along with my opening statement that I presented on behalf of the subcommittee, be printed in the RECORD; as well as two newspaper articles, one published on Monday, May 7, 1973, in the Minneapolis Tribune, entitled "Cost of Stay in Hospital Rises 7.9 Per-

cent in Last Year"; and the other published on the same day in the St. Paul Pioneer Press, entitled "Hospital Fees Up 7.7 Percent; Daily Charge Over $100."

There being no objection, the statements and the articles were ordered to be printed in the RECORD, as follows:

STATEMENT BY THE ASSOCIATION OF AMERICAN MEDICAL COLLEGES ON THE COSTS OF MEDICAL CARE AND THE ROLE OF THE FEDERAL GOVERNMENT

(Presented by John A. D. Cooper, M.D., President of the Association of American Medical Colleges, before the Consumer Economics Subcommittee of the Joint Economic Committee, May 15, 1973)

Mr. Chairman and members of the subcommittee: The Association of American Medical Colleges appreciates this opportunity to appear before the subcommittee as it begins hearings on the costs of medical care generally, and on the impact of the fiscal 1974 budget proposals on future medical costs and medical care. We are grateful that the Subcommittee on Consumer Economics has concerned itself with these crucial problems. We hope that the Association can work with you and the subcommittee during the months and years ahead.

The Association, now in its 97th year, represents the whole complex of persons and institutions charged with the undergraduate and graduate education of physicians. It serves as a national spokesman for all of the 114 operational U.S. medical schools and their students, 400 of the major teaching hospitals, and 51 learned academic societies whose members are engaged in medical education and research. The Association and its membership thus have a deep and direct involvement in the matters of immediate concern to the subcommittee.

In his February, 1971, message to the Congress on health care, President Nixon said, as he had said 19 months previously, that America's medical system faced a "massive crisis." "That crisis has deepened," the President said. "All of us must now join together in a common effort to meet this crisis—each doing his own part to mobilize more effectively the enormous potential of our health care system." One component of this crisis is the rapidly rising cost of medical care.

A great many factors contribute to the costs of medical care. The subcommittee undoubtedly will consider them all during the course of these hearings. The Association will discuss two fundamental factors that are essential determinants not only of medical costs but also of the quality of medical care. The first is the advance of biomedical research; the second is the availability of professional health personnel, and their efficient and effective utilization in the promotion of health and the prevention, diagnosis and treatment of disease.

Biomedical research is the foundation of modern health care. Through advances in knowledge we can develop the understanding of the living process and its modification by illness required to permit control of disease through prevention or diagnosis and treatment in its earliest, least harmful and least expensive phases. We really have never been able to control a disease unless we could intervene before clinical signs and symptoms appear.

A point needs to be made here about medical research and medical costs. Our incomplete knowledge about many diseases is expensive. For most diseases we are at what Dr. Lewis Thomas of the Yale University School of Medicine calls the state of half-way technology: for chronic kidney disease we have the expensive procedures of dialysis or kidney transplantation; for chronic heart disease we have open heart surgery and coronary by-passes; for neoplasms we have toxic antimetabolities, radiation or surgery. But none of these is really evidence of success in dealing with disease. They are in fact confessions of failure, of a lack of adequate understanding to prevent disease before clinical signs and symptoms appear. They are the consequences of partial understanding.

Not many years ago we were at the point of half-way technology for poliomyelitis. The iron lung and other life saving approaches, and orthopedic procedures which gave more mobility to the paralyzed, were little more than expensive methods to ease the suffering. But further biomedical research made it possible to identify and isolate the polio virus and to grow it in monkey tissue. From this capability came a vaccine which eliminated the disease and reduced the cost of polio almost to zero. Thus the additional research carried us beyond the expensive phase of incomplete knowledge to the point of complete control of the disease by preventing its occurrence.

The second fundamental factor, the availability of professional health personnel, helps to determine medical costs because it determines how and by whom medical care is provided. Some of these professionals conduct biomedical research. Others provide the benefits of research by treating patients and operating medical equipment and facilities. Still others serve as teachers for the young physicians of the future. All of them are involved, ultimately, in providing health care to the consumers.

Medical schools need federal support not only to increase the numbers and improve the distribution of physicians, but also to provide the appropriate use of health professionals in a team approach to the delivery of primary care. Since physicians ultimately will find themselves as heads of health care teams that include specially trained nurses, physician assistants and allied health professionals, medical students are working with trainees in these professions as part of their education.

Such teams can serve as models for the delivery of primary health care in the community. Teams also are becoming a common method of providing more highly specialized secondary and tertiary care in the teaching setting. For example, nurse midwives are now working under obstetricians to deliver babies at some academic medical centers. Teams of health professionals have long been responsible for critically ill patients in the intensive care units of most teaching hospitals.

As biomedical research and the availability of health personnel are reduced, the quality of medical care goes down—and medical costs go up. Without the discoveries and products of medical research, medical care itself becomes less efficient and more expensive. Without sufficient numbers and proper distribution of physicians and other health professionals, medical care becomes less available and more expensive.

Increasingly the federal government, and especially the Congress, have come to recognize the relationship between biomedical research and health manpower, on the one hand, and the quality and cost of medical care, on the other. But the proposed budget for fiscal 1974 evidently does not recognize that relationship.

ASSOCIATION SURVEY

When the budget was submitted early this year it was clear at once that health programs were not to receive the support they need. Of particular concern to the Association, and to the subcommittee, the requests were cut for research conducted through the National Institutes of Health and for health manpower programs. Reductions in regular research grants and in training grants and fellowships were especially severe.

The Association staff prepared a 51-page analysis of the health budget proposals and sent it, along with a 46-page questionnaire, to the nation's medical schools. Our effort was to gauge, as accurately as possible, the impact of the proposed budget on medical education. This includes the biomedical research conducted at academic health centers and the training of physicians to provide medical care.

Seventy-eight medical schools responded to the survey and made available to the Association their best judgment of the probable immediate effects—and longer term implications—of these budget recommendations on their education, service and research functions. For the academic year 1972–73, these 78 schools enrolled seven out of every ten medical students, and accounted for about 80 percent of all medical school operating expenditures in fiscal year 1972.

With the Chairman's permission, the Association is submitting a copy of the complete survey to be included in the hearing record. The subcommittee is urged to study this survey carefully for the information it reveals, indirectly, about the future costs of medical care.

The medical schools were asked to review their expenditures of federal funds in fiscal 1972 and their expectations of funds in fiscal 1974. Following are the principal findings of the Association's survey:

1. Federal funds available in fiscal 1974 for support of programs of research, teaching and service would drop 11 percent from the fiscal 1972 level, more than 15 percent from the level in the current fiscal year, and 26 percent from the level planned by the schools in fiscal 1974, prior to the release of the budget recommendations.

2. Income to the schools from other sources is expected to increase in fiscal 1974. But this increase will not offset the anticipated decrease in federal funds. A number of schools reported either that state legislatures would not grant requests for higher state appropriations or would not be in session even to consider such requests. Private schools have no source of income to replace lost federal funds.

3. The proposed reduced levels of fiscal 1974 federal support would require the schools to terminate the employment of one out of every 12 faculty members, unless other sources of salary support can be found. Additional income for the next academic year would be difficult to obtain at this late date.

4. In terms of undergraduate medical education, one third of the schools reporting indicated the strong possibility of having to reduce the size of future entering classes. For a considerable number of schools, future increases in first-year enrollments will not be possible. And for a majority of the reporting schools, programs for curriculum innovation may have to be abandoned or curtailed.

5. Regional Medical Programs termination—as proposed in the budget—may force about one out of two medical schools to phase out or to curtail their health care programs in rural or neighborhood ghetto areas; their referral services in such significant areas as cancer, heart disease, stroke, kidney transplants, radiation and emergency care; and their formal programs for instruction, lectures and seminars for the continuing education of practicing physicians.

ASSOCIATION RECOMMENDATIONS

Based on these and other findings of the survey, the Association has identified five general budgetary needs of the highest priority for medical education. These needs are being described in detail to the Appropriations Committees of the Senate and the House of Representatives. This subcommittee today is not concerned primarily with appropriations requests, but the Association's recommendations must be cited here because they represent the medical schools' response to the Administration's fiscal 1974 budget. The general recommendations follow, in descending order of importance.

Capitation grants—Appropriate $168 million for capitation-grant institutional support for schools of medicine, osteopathy and dentistry, the level necessary to maintain the fiscal 1972 dollar level of support per student.

Regular research grants—Add $79.5 million to the NIH budget for research institutes and divisions and direct that the funds are to be used to raise regular research grants for each Institute to at least the fiscal 1972 level plus a cost-of-research increase of 12 percent.

Training grants and fellowships—Direct the continuation of the NIH research training grants and fellowships and the support of new trainees and fellows and add $82.4 million to the NIH research budget to maintain these activities at the fiscal 1972 level plus a cost-of-training increase of 12 percent. Of the $82.4-million increase, $61 million is to be allocated for training grants and $21.4 million is to be allocated for fellowships.

Student assistance—Appropriate $46 million for health professions student loans and $19.2 million for health professions scholarships, the levels necessary to keep pace with enrollment increases or to maintain past levels of assistance. Direct that these programs are to be continued.

Construction grants—Appropriate ¢140 million for construction grants for health professions teaching facilities, the same level appropriated in fiscal 1972.

From these general findings and recommendations, the Association would return the subcommittee's attention to the two fundamental factors that determine medical costs and medical care, the advance of biomedical research and the availability of professional health personnel.

BIOMEDICAL RESEARCH

Two of the Association's priority concerns—regular research grants and training grants and fellowships—are part of the NIH research budget. But the budget for fiscal 1974 shows the effect of plans to phase out these programs. This deeply concerns the Association, because these programs profoundly affect both the conduct of research and the training of research scientists and medical school faculty members.

Regular research grants

Questions are being raised by the Administration about the wisdom of maintaining federal support of our research efforts, particularly in the form that has made the United States so preeminent in medical science. The mistaken idea is held by those with backgrounds in law or economics, and who have power in decision-making in the federal establishment, that research can be made more effective and efficient by introducing a greater degree of management and more targeting of efforts.

This managerial philosophy is in direct conflict with the findings of a study conducted by the Federal Reserve Bank of Philadelphia. This study of innovations and breakthroughs in five broad areas of technological research showed that virtually all major developments resulted from small entrepreneurial research groups or individuals working outside the framework of large directed programs. As Dr. Irving Langmuir, Nobel laureate in chemistry, once observed, "Only a small part of scientific progress has resulted from a planned search for specific objectives."

Yet, federal decision-makers persist in their belief that the increased management and direction of federal research expenditures by Washington bureaucrats will lead to more immediate payoffs. This thinking is embodied in the President's budget request for NIH, where funds for regular investigator-initiated research are being reduced and money for directed research-by-contract is being increased. New and competing research grants—that is, funds for new investigator-initiated projects—have been slashed by more than 40 percent from the 1972 level. Furthermore, the increased federal support for heart and cancer research, proposed in the fiscal 1974 budget, draws funds away from research in other fields. This can thwart the synergistic benefits of a balanced, coordinated national program of research into the physical and mental diseases and impairments of man.

The thrust of biomedical research is to find the scientific basis for the subsequent development of improved methods for the treatment of disease. The leading edge in biomedicine is comprised of the new ideas and the new researchers which can be developed and encouraged through new research grants. The value of funds directed to the support of specific research projects is, in turn, multiplied by funds providing general research support. These can be used at the discretion of an institution in the development of new research programs, providing initial support for young investigators, undertaking pilot projects and feasibility studies, and supporting centralized facilities and services needed by multiple investigators. General research support funds enable an institution to balance its various research programs and to support research along a broad front of related fields.

While most efforts at measuring the economic benefits of biomedical research suffer from the difficulty of measuring the vast array of imponderables that must be included in any assessment, it is possible in some specific disease areas to produce meaningful information. The use of polio vaccine, for example, resulted in savings in medical care costs alone of more than $326.8 million between 1955 and 1961, according to a study prepared by James W. Colbert, Jr., M.D., vice president for academic affairs of the Medical University of South Carolina, for an American Biology Council task force on the contributions of biology to human welfare. Similarly, he estimated that the benefit from 1963 to 1968 due to immunization against measles amounted to more than $531.5 million. Other studies have reported on savings in other fields. Improved treatment of tuberculosis produced savings of $5 billion in the period 1954 to 1969. Still other illustrations of the value of basic research include: L-Dopa for Parkinson's disease, an annual savings of $1.2 billion; prophylaxis of carcinoma of the cervix by the Papanicolaou smear, an annual saving of $1.1 billion.

Survey results—Responding to the Association's survey, the medical schools indicated that fiscal 1974 federal funds for research were substantially below expectations and that the effect on faculty salaries supported from federal research funds would be serious. This drop in federal research funds is to come at the same time the schools expect nonfederal research support to remain virtually unchanged. Overall, the schools reported, federal research support would drop 16 percent from anticipated levels. Funds for new research grants are down 39 percent; contract funds are down 7 percent; funds for specialized centers are down 18 percent; general research support funds are down 71 percent. Faculty support from research grants and contracts is down 17 percent, and from general research support funds is down 71 percent.

Training grants and fellowships

In addition to these reductions in regular research grants, the fiscal 1974 budget proposes phasing out the research training and fellowship programs supported through NIH.

To phase out training grant programs would reduce support for graduate education and for stipends available to students preparing themselves for careers in biomedical research and teaching. Institutional support under training grants has made it possible for the medical schools to develop formal educational programs to prepare students with advanced knowledge in their field of interest and related disciplinary fields. After the students have had this initial preparation, their support usually has been transferred to research project grants during the period in which they actually have been obtaining research training at the laboratory bench under the tutelage of their faculty perceptor.

Training grants and fellowships have been highly successful in producing career researchers and teachers. A recent study at the University of Washington indicated that 79 percent of basic science trainees have assumed full-time academic positions; an additional 17 percent have entered full-time research outside the academic health center. Thus, at a single university medical center, the NIH training programs have resulted in 96 percent of the trainees entering careers toward which the training grant program is directed. The University of Minnesota reported that of 1,040 trainees directly supported by training grants, almost 70 percent have taken academic positions. A recent survey of 68 medical schools revealed that of 3,267 internal medicine faculty members, 82 percent had received NIH training grant support during their academic development.

Despite this evidence, the lawyers and economists in the federal hierarchy believe that support of research training is an inappropriate government activity. They cite the "excess of qualified scientific manpower," concluding that an oversupply exists simply because there are not enough federal research dollars to support all the approved projects. They maintain that research must compete in the marketplace with other career opportunities, surviving only on the basis of its attractiveness as a profession. In rejecting the federal role of promoting careers in the public interest, this Administration has apparently endorsed Adam Smith's 18th Century notion that "an invisible hand" will guide the free marketplace toward achieving the common good.

It is difficult to understand the proposal that the marketplace be permitted to determine the interest of young people in preparing themselves for biomedical research and training. Those who enter these fields would have the prospect of a smaller income than they would have if they entered the practice of medicine. At an age when a practicing physician could expect to be earning an average annual income of $43,000, an M.D. who chose an academic career could expect to be earning only $24,000. The marketplace theory suggests that an economically rational person would be unwilling to incur substantial debt to pay for his graduate education, and to engage in an endeavor which would bring lower financial return when he could prepare for practice in programs that would provide income during the training period and would result in a greater stream of earnings once the training was completed.

Survey results—Responding to the Association's survey, the schools reported significant unexpected drops in fiscal 1974 funds for research training and resulting drops in numbers of trainees, student stipends, and faculty support. Funds for training grants are down 42 percent; funds for fellowships are down 27 percent. As a result, numbers of trainees or fellows, student stipends and faculty support are down comparable amounts. Because of the cut in training grants, for example, the number of trainees is to drop 44 percent, stipends are to drop 39 percent, and faculty support is to drop 45 percent.

EDUCATION OF HEALTH PROFESSIONALS

Three of the Association's priority concerns—capitation grants, student assistance and construction grants—are part of the NIH health manpower budget for medical, dental and related health professions. The fiscal 1974 request of $271,206,000 is $14.1 million below the amended fiscal 1973 budget and $173.6 million below the level of fiscal 1972 appropriations. These reductions are a direct result of lower per-student capitation support, of plans to shift health professions scholarship assistance to the national health service scholarship program of the Health Services and Mental Health Administration, and of a decision to terminate grant assistance for the construction of health professions teaching facilities.

Institutional support

Aside from special start-up assistance for new schools or for schools of basic science converting to degree-granting medical schools, institutional support is comprised of capitation grants, special project grants and financial distress grants. Capitation grants are by far the most important type of assistance, accounting for 75 percent of the fiscal 1974 request for institutional support. The Comprehensive Health Manpower Training Act of 1971 required the schools to meet certain enrollment increases in order to qualify for capitation grants. Actual capitation grant support never has met the authorized levels of such support (and in fact drops from the 1972 level of 70 percent to a proposed 1974 level of 64.9 percent), but the schools have been required to meet a full 100 percent of the legislatively mandated enrollment increases.

Faced with an immediate need for sizable budget savings, medical schools have virtually no choice but to cut back on the number of faculty and staff. Medical education is highly labor intensive. Salaries and fringe benefits account for some 60–70 percent of the operating budgets of the schools, compared to 30 percent of the operating budgets for industry. The medical schools already anticipate having to terminate or to find other means of support for about one out of 12 faculty members as a result of indicated fiscal 1974 budget reductions. As grave as such reductions are in their effect on medical education programs in the coming year, the implications for future years are even more serious. This is so because a talented and imaginative faculty, once disassembled, is not easily reassembled. Thus, dismantling a school's faculty in order to save money in fiscal 1974, affects not only the short-term prospects for progress in health but also the long-term prospects.

Survey results—Responding to the Association's survey, the schools reported unexpected fiscal 1974 drops in each of the major programs of institutional support. Fiscal 1974 capitation grant funds are down 16 percent from anticipated levels. Special project support is down 34 percent for physician augmention projects, down 35 percent for curriculum improvement projects, and down 35 percent for minority enrollment projects. Financial distress assistance is down 69 percent. As a result of this unexpected loss in federal institutional support, the schools reported plans to reduce enrollment, to reduce faculty and staff (or leave vacancies unfilled), and to abandon proposed curriculum improvement projects.

Student assistance

Funds for health professions student loans fall far short of the need. Against requests from the medical schools for $37 million in loans, the budget allocates $19.5 million. Against an entitlement by formula of $15 million for medical student scholarships, the budget allocates $4.4 million. This reflects an Administration policy decision to shift health professions scholarship assistance to an expanded national health service scholarship program. The Association does not see how the necessary legislation can be enacted and implemented in time for the September, 1973, entering class.

The immediate lack of adequate scholarship and loan funds to support students from lower socioeconomic levels makes it difficult for the medical schools to continue their efforts to expand minority enrollments and to broaden the socioeconomic background of the student body. In the current academic year, it is estimated that 27 percent of medical students received health professions loans and that 15 percent received health professions scholarships.

The Health Professions Scholarship Program plays an essential role in support of low income medical students. In a separate survey of financial aid needs recently conducted by the Association, it was found that about 20 percent of the current total enrollment of medical students are from families whose gross parental income is less than $10,000 a year. Based on incomplete returns, the Association found that low income students represent 50 percent of the scholarship recipients and 61 percent of all scholarship dollars awarded. Of significance is the fact that the Health Professions Scholarship awards represent approximately one-third of all scholarship funds and thus are a critical component of support for these students.

Although many low income students do secure loans to help them meet medical school expenses, they are understandably reluctant to overburden themselves with financial obligations. In order to attract low income students to a career in medicine it is absolutely necessary that medical schools be in a position to balance scholarship and loan support for such students and to keep the commitments they make. This is the reason that a strong Health Professions Scholarship Program is essential and should be maintained at adequate levels.

Survey results—The schools were particularly discouraged at the proposed changes in health professions student assistance. Economically disadvantaged students account for a disproportionately large share of scholarship assistance, and the proposed drop in health professions scholarships will force the schools to abandon plans to enroll more disadvantaged students. More than half the schools reporting, for example, said they would be unable to increase the enrollment of low-income students in the face of reduced scholarship aid. Nearly a third of the reporting schools were concerned that new entering classes would be composed almost exclusively of students from affluent families.

Construction assistance

The fiscal 1974 budget requests no construction grants for health professions teaching facilities. Instead, its only request for construction assistance is $1 million for federal interest subsidies on federally guaranted loans. These funds are to be used to make payments on at least six previously approval projects which will add approximately 80 first-year places upon completion.

A number of problems arise with such an approach. (1) The loan guarantee-interest subsidy program is available only for private schools, thus effectively blocking the 71 public medical schools from federal construction assistance, and forcing them to rely upon debt financing if it is available. (2) The number of first-year places to be added under projects supported by the budget is pitifully small when compared to the number of medical school applicants who are turned down each year because the schools are unable to expand their facilities in order to accommodate increased enrollments. (3) The schools are being required to increase their enrollment in order to qualify for capitation-grant institutional support. Yet at the same time, they are being denied the funds they need to erect the facilities for larger enrollment.

There appears to be just as much need now for construction grants for health professions teaching facilities as there was when the program was approved in the Comprehensive Health Manpower Training Act of 1971. The fiscal 1974 authorization is $275 million. About $350 million in approved but unfunded construction grant applications remained after the award of fiscal 1972 construction grants. In addition, the Association estimates that $150 million a year is required just to maintain the existing physical facilities of the medical schools.

Survey results—One example from the Association's survey illustrates one of the construction dilemmas facing medical schools. A school reported: "The expansion of enrollment and faculty at this school has proceeded far more rapidly than the expansion of the physical plan, and the faculty is now housed in cramped quarters, including 25 trailers, three 'temporary' buildings, and 78,400 square feet of rented space. Planning funds for an additional building have been approved by the state legislature; but with the loss of federal grants, there is a serious question of whether the state can provide 100 percent funding for the needed construction. Since this is a state institution, the program of guaranteed loans and interested subsidy will not solve our construction needs."

The Association hopes the subcommittee understands the serious implications of the fiscal 1974 budget on biomedical research and the education of health professionals in the immediate future, and on medical care and medical costs in the years to come. Again, the Association urges a careful study of the medical schools' survey included as part of this testimony. It is the most complete statement of its kind now available, and its significance for the eventual consumer interests in medical care should not be underestimated.

FINANCING MEDICAL CARE SERVICES: THE FEDERAL ROLE*

(By Karen Davis, the Brookings Institution)

Thank you for the opportunity to testify on the federal role in providing adequate health care to the American people at reasonable cost. The federal government currently plays a major role in financing medical care services through the Medicare and Medicaid programs. In addition, the federal government subsidizes the purchase of health insurance and the payment of medical expenses for most Americans through special tax provisions. Federal payment of medical services, either directly or indirectly through foregone tax revenues, is estimated to amount to $23 billion in 1974.

Since the Administration has proposed several major changes in these programs, I have organized my oral statement around three questions: (1) What deficiencies in financing services for all Americans exist even with current programs? (2) Are the changes in these programs which have been proposed the most effective way of meeting these deficiencies? (3) What problems in the medical care system are unlikely to be solved by even the best financing arrangements?

The case for a major federal role in financing medical services is largely undisputed. While medical care is only one factor contributing to health, it is often a critical factor—sometimes a matter of life and death. Society has come increasingly to the view that adequate medical care is a basic right, neither to be denied nor treated as a charity to those who are poor. Moreover, people have more than altruistic interest in seeing that others get medical care. Communicable diseases are reduced by immunization and treatment, healthier children do better in school, and a healthier work force means a more productive economy.

Without public help many people will

* The views presented in this statement are those of the author and not necessarily those of the officers, trustees, or other staff members of the Brookings Institution.

be unable to finance needed medical care or will be able to do so only with hardship. Medical bills often come in large unpredictable amounts. Private insurance mitigates, but does not solve the problem of financing health care. For the poor, even when payments are spread over time and risks shared through insurance, buying adequate health care is an excessive burden. Medical care, especially preventive care, is likely to be postponed. For the middle class, average medical expenses and standard health insurance coverage do not take an impossibly high share of income, but for those afflicted with major health catastrophes, medical expenses can suddenly bring financial distress or even ruin. Most private insurance does not offer adequate protection against such expenses. Even for the half of the population covered by some major medical insurance, limits are frequently placed on expenditures which will be covered and individuals are required to pay a sizable fraction of those expenditures that are covered.

CURRENT FEDERAL PROGRAMS FINANCING MEDICAL CARE SERVICES

Since the mid-1960s the federal government has played a major role in financing individual medical care services through the Medicare and Medicaid programs. In addition to these well-known programs, the federal government subsidizes the purchase of health insurance and the payment of medical expenses through special tax provisions. Under the personal income tax, individuals may deduct one-half of the cost of health insurance premiums plus all medical expenses (including the remaining premium) that exceed three percent of his income. These provisions benefit high income people far more than low income people, because high income people are more likely to itemize deductions and because they face higher tax rates. A thousand dollar deduction is worth $140 to the taxpayer facing a 14 percent tax rate and $700 to a taxpayer in the 70 percent bracket.[1] Moreover, the fact that employer contributions to health insurance for employees are not included as income on the employees' income tax results in loss of revenue to the government. The federal government, therefore, subsidizes the purchase of health insurance both by individuals and by employers on their behalf.

These three programs for financing individual medical care services have met many gaps in private health insurance coverage. Medicare has brought insurance to many elderly people who would otherwise have lost their insurance coverage on retirement. Medicaid has helped the poor, a group with little private health insurance coverage. Only a third of the poor have any private insurance protection compared with 90 percent of families with incomes of $10,000 or more. The tax provisions provide some relief for families with high medical expenses who itemize deductions under the personal income tax.

As shown in Chart 1, federal expenditures under both Medicare and Medicaid go primarily to low income groups. This is hardly surprising since Medicaid is explicitly designed to aid the poor and Medicare aids the elderly population which is disproportionately represented at the low end of the income scale.[2] Tax subsidies by contrast give only a little relief to the poor, primarily the working poor with health insurance. Most of the benefit of tax subsidies is concentrated in the middle and upper income groups. If one puts all three programs together, about 45 percent of the total benefits go to the people in families with incomes below $5,000. This concentration of benefits on low-income groups, however, is largely attributable to sizable expenditures for low-income old people. Of the $5 billion in benefits for people under 65 in 1970, only 28 percent went to people with family incomes under $5,000, while 40 percent went to individuals with more than $10,000 income. Indirect payment of medical services for middle and upper income families, therefore, substantially exceeds that made on behalf of the non-elderly poor by the federal government.

TABLE 1.—DISTRIBUTION OF BENEFITS UNDER CURRENT PROGRAMS, BY INCOME AND AGE, 1970

	Total Federal benefits	By program			By age—	
		Medicare payments	Federal medicaid payments	Federal tax subsidies	Under 65	65 and over
Total amounts (in millions)	$14,224	$7,494	$2,930	$3,800	$4,994	$9,230
Family income (percentage distribution)	100	100	100	100	100	100
Under $5,000	45	54	67	13	28	54
$5,000 to $9,999	28	26	24	31	32	26
$10,000 to $14,999	16	14	5	26	21	13
$15,000 and above	11	7	4	30	19	7

Sources: Total medicare and medicaid payments are from U.S. Social Security Administration, Office of Research and Statistics, compendium of "National Health Expenditures Data," DHEW (SSA), 73-11903 (1973), p. 73; the distribution is derived from unpublished estimates of payments by family income. The amount of tax subsidy is from Bridger M. Mitchell and Ronald J. Vogel, "Health and Taxes: An Assessment of the Medical Deduction," unpublished paper, 1973; the distribution is based on data in ibid., p. 34, and Martin S. Feldstein and Elizabeth Allison, "Tax Subsidies of Private Health Insurance: Distribution, Revenue Loss and Effects," in "The Economics of Federal Subsidy Programs," Joint Economic Committee, U.S. Congress (forthcoming).

PROBLEMS IN CURRENT PROGRAMS

Current federal programs help millions of people pay for medical care, but they have three major flaws: (1) they are extremely uneven in coverage and benefits; (2) they provide little protection against catastrophic medical expenses; (3) the tax subsidy program offers large benefits to the rich and little to the poor.

Relative to other groups the elderly have been treated generously under federal health financing programs. Medicare provides substantial benefits for hospital and physician care for retired persons covered by social security no matter where they live or what their income. In addition to substantial portion of medical money in some states is spent for medical services to improverished old people covered by Medicaid.

These programs do not, however, relieve old people of all Medical expenses. Indeed, the elderly now pay more for medical care out-of-pocket than before the inception of the Medicare program. Private payments for personal health care of the elderly averaged $309 in fiscal year 1966, before the introduction of Medicare. In fiscal 1972, private payments totaled $404 per capita (including $67 in Medicare premiums). The predominantly poor elderly population, therefore, has not been protected from the ravages of medical care inflation.

High out-of-pocket expenses of the elderly are partly attributable to the fact that Medicare does not protect old people from the expenses of prolonged hospitalization or extremely serious illness. Under the hospital portion of Medicare, after the first 60 days the individual pays $18 per day. After the 90th day, the individual may use a lifetime reserve of 60 hospital days, making a contribution of $36 per day. However, once the individual has been in the hospital for 150 days, the program makes no further payments (or after 90 days if the individual has already used up the lifetime reserves), and the individual is forced to pick up all expenses. Under the physician portion of Medicare, individuals must pay 20 percent of the physician charge even if the charge runs into many thousands of dollars. Other benefits such as private duty nursing care and out-of-hospital drugs are not covered at all. If an elderly individual is sick enough for long enough, he may incur bankrupting out-of-pocket costs.

Medicaid has been plagued from its inception by the federal-state nature of the program, so that low-income individuals in some geographical areas have complete protection against virtually all medical expenses while low-income individuals in other geographical areas have only limited Medicaid benefits.[3] As shown in Chart 2, 46 percent of poor individuals live in the South, yet only 17 percent of Medicaid payments go to individuals in that area. Three states, New York, Massachusetts, and California, spend 50 percent of all Medicaid funds. In addition to geographical inequities created by the Medicaid program, by tying benefits to eligibility for welfare, many poor individuals without adequate private health insurance coverage receive no coverage from Medicaid—such as the working poor, childless couples, and low-income families with an unemployed father in states which do not provide cash assistance for such families.

Existing tax subsidies for health insurance and medical expenses also contain a number of deficiencies. First, they channel large amounts of federal revenues to middle and upper income persons for health insurance premiums—expenses which could be met by most upper income persons without undue financial burden. Of the $3.8 billion in tax subsidies in 1970, $2.5 billion stemmed from tax treatment of health insurance premiums.

TABLE 2.—DISTRIBUTION OF BENEFITS UNDER CURRENT PROGRAMS, BY RESIDENCE, 1970

	Medicare		Medicaid	
	Elderly population	Medicare payments	Poor population	Federal medicaid payments
Total amounts (in millions)	20	$7,494	26	$2,930
Residence (percentage distribution)	100.0	100.0	100.0	100.0
Northeast	25.9	28.6	17.8	39.6
North Central	28.5	27.7	21.9	19.2
South	30.1	25.7	45.7	16.7
West	15.4	18.0	14.6	24.5

Sources: U.S. Department of Health, Education, and Welfare, Social Security Administration, Office of Research and Statistics, "Health Insurance for the Aged: Monthly Reimbursements per Person, by State, 1970," HI-41, 1973, table 1; U.S. Department of Health, Education, and Welfare, National Center for Social Statistics, "Numbers of Recipients and Amounts of Payments Under Medicaid and Other Medical Programs Financed From Public Assistance Funds, 1970," NCSSB-4 (Calendar year 1970), 1974, table 3.

Footnotes at end of article.

Second, tax provisions covering direct medical expenses do not adequately protect individuals from catastrophic expenses. For example, if a family with income of $10,000 incurred $4,000 of medical expenses, its taxes would be reduced by $703. While this is some compensation, it is far from adequate protection against excessive medical bills. Third, the deduction mechanism is an inequitable method of compensating individuals for financial losses from catastrophic medical expenses. For example, if a family with income of $30,000 incurred the same $4,000 of medical expenses, its taxes would be reduced by $1,176.[4] The federal government "pays" a higher share of the medical expenses of the family whose income is four times as high, and who presumably could better afford the $4,000 expenditure. In short, tax deductions do not meet the needs of either the poor or the middle income class. For the former, they provide little assistance at all. For the latter they help pay for normal medical expenses—which are not a burden—and do little to help pay for catastrophic expenses, which are the real medical problem for middle income families

PROPOSED CHANGES IN CURRENT PROGRAMS

The Administration's budget for fiscal year 1974 proposes cutbacks in Medicare that will result in the elderly paying a larger share of hospital and physician bills. Coinsurance under the physician portion is to be increased from 20 percent to 25 percent and the deductible increased from $60 to $85. This change will result in substantially higher costs for all Medicare beneficiaries using physicians' services. Individuals incurring physicians' bills of $2,000—as do about 400,000 Medicare beneficiaries every year—under current law would pay $450 of those bills. Under the proposed law, they would pay $560. For those unfortunate enough to incur physician charges of as much as $10,000, the individual's share of the bill would increase from $2,050 under current law to $2,560 under the proposed law.

Under the hospital part of Medicare, present copayments will be replaced by a requirement that all individuals pay 10 percent of the total charges for hospital care for all covered days. Most Medicare beneficiaries with hospital stays of 100 or more days would face somewhat lower charges than under current law and for very long stays the reduction in charges would be quite significant. However, since 99 percent of all Medicare hospital stays are less than 100 days in length, most Medicare patients would be required to pay higher charges. Under current law, a patient hospitalized for 30 days, for example, would pay only the initial deductible, estimated to be $84 in 1974. Under proposed legislation, if he incurred average hospital bills he would be required to pay approximately $400.

Day of hospital stay	10	20	30	60	90	150
Percent of stays exceeding this length of stay	50	21	10	2	1	0.6
Total patient payments in 1974 under current legislation	$84	$84	$84	$84	$714	$3,234
Average total patient payments in 1974 under proposed legislation	$167	$281	$392	$678	$864	$1,163

The Administration estimates that these changes in the Medicare law will reduce federal expenditures by $500 million in fiscal year 1974, and $1.3 billion in 1975—the first full year covered by the change.

Greater use of coinsurance features in health insurance coverage can have desirable consequences. Coinsurance on hospital charges, for example, encourages patients and physicians to select less expensive hospitals and reduce excessively long hospital stays, and by doing so discourages hospitals from charging exorbitant fees. The proposed changes in cost-sharing under Medicare are particularly inappropriate, however, because: (1) they are not related to income; (2) they contain no ceiling on coinsurance payments; and (3) savings generated by the coinsurance provisions are not used to provide better protection against catastrophic expenses—such as an increase in covered hospital days or coverage of out-of-hospital prescription drugs.

Any discussion of cost-sharing provisions must be in the context of reasonable ability to pay such charges. Few elderly individuals have sufficient incomes to pay sizeable coinsurance amounts: only 18 percent of the elderly had family incomes above $10,000 in 1970. In addition, the elderly already pay twice as much out-of-pocket for medical services as other population groups. Under proposed legislation, an elderly couple with one member hospitalized for 30 days and physician bills of $2,000 could expect to pay medical expenses of at least $1,500 (including Medicare premiums, non-covered benefits such as drugs, and normal medical expenses for the other family member). Most would agree that such an out-of-pocket payment is excessive for any family with income below $10,000—or about 82 percent of all elderly individuals.

It might be argued that greater use of coinsurance under Medicare would not cause financial burdens because the Medicaid program could pick up coinsurance amounts for the elderly poor. Experience with the Medicaid program; particularly the wide variation in benefits across geographical areas, gives little hope that the Medicaid program can be relied upon to protect all the elderly poor from excessive bills. Furthermore, many elderly persons who could face serious financial burdens under the proposed changes would not be sufficiently poor to qualify for Medicaid. Only 19 percent of the elderly are currently covered by Medicaid.

In addition to the changes in the Medicare program, the Administration has also proposed eliminating the adult dental benefit in the Medicaid program, resulting in a federal savings of $75 million in 1974. Extension of coverage to clinics not associated with hospitals will offset $20 million of this savings and increases in Medicaid expenditures for the elderly necessitated by changes in the Medicare program will offset another $44 million—resulting in a total savings of $11 million. Although these sums are small in relation to total Medicaid expenditures, they should be viewed in the context of past changes in the Medicaid program. The Department of Health, Education, and Welfare estimates that the poor will receive about $1.3 billion less in Medicaid benefits in 1974 as a result of the Social Security Amendments of 1972. At a time when medical costs are rising, legislative effort should be devoted to remedying the deficiencies of the Medicaid program—such as the low benefits in many states and exclusion from coverage of the working poor, childless couples, and, in some states, low-income families with an unemployed father—rather than continuing to cut back benefits.

Recently, the Administration has proposed changes in the tax provisions affecting health insurance and medical expenses. In testimony before the House Ways and Means Committee on April 30, 1973, Secretary of Treasury Shultz indicated that as part of a personal income tax simplification plan, the Administration proposes elimination of the special treatment of individual health insurance expenses. In its place is a single deduction for all medical expenses, health insurance premiums, and casualty losses; an itemized deduction would be permitted only to the extent that the combined total exceeds a floor equal to 5 percent of the taxpayer's adjusted gross income. No change in tax treatment of employer contributions to health insurance premiums is proposed.[5] While this change has the effect of reducing tax subsidies for medical expenses—which go in large part to higher income groups—inequities arising from the greater value of a deduction to higher income individuals would still be present.[6]

A still better alternative would be to replace all existing tax benefits for health insurance and medical expenses with a tax credit for all medical expenses in excess of some percentage of income. For example, taxes could be reduced by one dollar for each dollar of medical expenses in excess of 15 percent of income, In this case, a family with an income of $10,000 and medical expenses of $4,000 would have its taxes reduced by $2,500. A family with income of $40,000 and the same medical expenses would receive no reduction in taxes. Such an approach would have several advantages over a tax deduction. First, tax benefits would be concentrated on those for whom medical expenses pose the most serious financial burdens. Second, individuals would be guaranteed that their payments for medical expenses would not exceed some reasonable fraction of income—any expenses above that would be "paid" by the federal government. Third, the government would no longer be paying a higher share of medical bills for higher income individuals.[7]

Table 3 illustrates the costs and distribution of benefits by income class in 1974 under existing legislation, legislation proposed by the Administration, and several alternative tax credit schemes. The proposed legislation would reduce tax subsidies arising from personal income tax deductions from $2.6 billion in 1974 to $860 million.[8] A refundable full tax credit on all medical expenses in excess of 15 percent of income would result in a tax subsidy of $2.2 billion—if only those individuals who currently itemize medical expenses were to take advantage of the tax credit. However, many low-income individuals who do not currently itemize deductions would be eligible for benefits under a tax credit plan so that the costs are underestimated. The estimates also do not consider any changes in prices, use of medical services, or health insurance coverage which would be induced by the credit. Final cost of the scheme, therefore, could substantially exceed $2.2 billion. Benefits under the tax credit plan would be concentrated much more heavily toward low income individuals. Under current law, 21 percent of personal income tax benefits for medical expenses go to individuals with incomes of less than $10,000.[9] Under proposed legislation, 34 percent of benefits would go to such individuals. Under a refundable full tax credit for all medical expenses in excess of 15 percent of income, 70 percent of the tax benefits would go to individuals with incomes below $10,000.

TABLE 3.—TAX SUBSIDIES FOR MEDICAL EXPENSES UNDER CURRENT AND ALTERNATIVE LAWS, 1974

	Current law	Law— 1	2	3	4	5
Total tax subsidy (in millions) [1] [2]	$2,625	$860	$2,227	$3,399	$789	$1,476
Adjusted gross income class (percentage distribution)	100.0	100.0	100.0	100.0	100.0	100.0
Under $5,000	2.0	4.1	27.4	23.3	9.5	7.2
$5,000 to $9,999	18.7	29.7	43.3	43.2	40.4	39.3
$10,000 to $14,999	21.6	19.4	9.7	13.1	14.2	20.5
$15,000 and over	57.8	47.0	19.4	20.3	36.0	33.0

[1] None of the plans include $3,000,000,000 tax subsidy in 1974 attributable to exclusion of employer contributions to health insurance plans from taxable personal income.

[2] Estimates are based on individuals currently itemizing medical deductions. Many low-income individuals who do not currently itemize deductions would be eligible for benefits under a tax credit plan. Tax subsidies shown, therefore, are underestimated—particularly for Laws 2 and 3 which would refund any excess of the credit over total tax liability. The estimates do not consider any changes in prices, use of medical services, or health insurance coverage induced by the credit.

Note: Law 1: Itemized deduction of all health insurance and medical expenses in excess of 5 percent of income (administration proposal omitting casualty losses). Law 2: Full tax credit for all health insurance and medical expenses in excess of 15 percent of income, refundable. Law 3: Full tax credit for all health insurance and medical expenses in excess of 10 percent of income, refundable. Law 4: Full tax credit for all health insurance and medical expenses in excess of 15 percent of income, nonrefundable. Law 5: Full tax credit for all health insurance and medical expenses in excess of 10 percent of income, nonrefundable.

Source: Estimates derived from the 1970 file of individual income tax returns with data projected to calendar year 1974 levels.

While such a plan would do much to alleviate the financial distress of catastrophic medical expenses, a strong case can be made for shifting from a patchwork system of Medicaid for the poor, Medicare for the elderly, private insurance for many others, and tax subsidies for catastrophic expenses to a new system of comprehensive national health insurance designed to move toward three objectives: (1) ensuring that everyone has access to essential medical care regardless of income, location, or type of family; (2) protecting everyone from medical expenses that are high relative to income; and (3) reducing costs and encouraging efficiency in the delivery of medical care. One general type of proposal that seems best adapted to meeting the three criteria at once is a national health insurance plan with income related benefits.

Under such a plan both deductibles and coinsurance would be related to income so that people would be protected against expenses that were high relative to their income. To prevent undue financial burdens a ceiling could be placed on the maximum out-of-pocket expenses a family would have to pay. For example, under the plan, a middle-income family could be responsible for all expenses under 10 percent of income. Above that, the plan could pay half of all expenses until total expenses exceed 20 percent of family income. Once total expenses reached 20 percent of income, the insurance plan could pay all expenses. More generous provisions could be designed for lower income families. To encourage use of preventive services, it might be desirable to have no payment by the lowest income groups. One advantage of such an approach is that a single plan would serve the dual purpose of protecting the poor against normal expenses and protecting higher income people against high expenses, hence, there would be no stigma attached to receiving benefits under the plan. Benefits would depend solely on the relationship between the expense incurred and a family's income, not on arbitrary factors such as where the family happens to live or who is in the family group. The fact that people would normally be paying part of the expenses themselves could be expected to lessen wasteful use of medical resources and encourage both doctors and their patients to use less, rather than more costly types of care.

Unlike a tax subsidy scheme, these automatic incentives could be supplemented with controls on unnecessary utilization, excessive charges by medical care providers, and inferior quality of care. It could also contain incentives promoting the use of innovative and more efficient forms of organizing and delivering medical care services.

PROBLEMS NOT SOLVED BY FINANCING

While an adequate financing program is essential in assuring access to medical services and preventing financing burdens arising from large medical bills, such a financing program cannot be relied upon to solve all the problems of the health care system. Experience with existing financing programs clearly suggests that even with comprehensive national health insurance some groups—especially minority groups and residents of central cities and farms—would get substantially less care than others unless special efforts were made to increase the access of these groups to care.

Under Medicare, for example, uniform benefits are available to all participants, but average expenditures are substantially less for blacks than whites. Although 8.6 percent of the elderly population belongs to a black or other non-white race, they receive only 5.9 percent of the payments made by the program. In 1969, average reimbursement for hospital and physician services per elderly white person was $320 compared with $229 per elderly black person. Most of this discrepancy is explained by the fact that elderly whites use more medical services, even though elderly whites enjoy better health than elderly persons of other races.[10]

TABLE 4.—USE OF MEDICAL SERVICES BY THE ELDERLY, BY RACE, 1968-69

Type of service	Whites	All other races
Hospital care: [1]		
Discharges per 1,000 Medicare enrollees	312	237
Hospital days per 1,000 Medicare enrollees	4,150	3,491
Hospital charges per day	$65	$60
Medicare payments per elderly person	$215	$150
Physician care: [2]		
Annual visits per person	6.2	5.1
Percent of visits in hospital clinic	5.4	15.3
Medicare payments per elderly person [3]	$105	$79
Health status: [2]		
Restricted activity days per person per year	33.1	47.6
Bed disability days per person per year	13.1	20.5
Percent with limitations due to chronic conditions	41.6	51.4
Percent unable to carry on major activity	15.1	25.0

[1] "Current Medicare Survey Report, Hospital Insurance Sample," inpatient hospital utilization, 1966-69, CMS-2S, Office of Research and Statistics, Social Security Administration, March 1973.

[2] "Age Patterns in Medical Care, Illness, and Disability, United States, 1968-69," series 10-No. 70, National Center for Health Statistics, U.S. Department of Health, Education, and Welfare, April 1972.

[3] Calculated from 1970 data supplied by the Social Security Administration.

Elderly whites have fewer restricted activity days, fewer bed disability days, and fewer suffer from chronic health conditions. In spite of the better health status of elderly whites, whites are admitted to the hospital more frequently, use more days of hospital care, and visit the physician more frequently. Since comprehensive financing appears not to eliminate racial disparities, it is urgent that supplementary measures be undertaken on the supply side to improve the physical access of blacks to medical resources—such as increasing the supply of black medical personnel, greater placement of black physicians on hospital staffs, training of minority residents as paraprofessional personnel to work in community health organizations, subsidies for health care organizations to locate in minority neighborhoods, and improved and expanded hospital outpatient facilities.

In addition to barriers to medical care for blacks and other non-white groups, residence is also an important determinant of use of medical care services. Rural residents lag well behind residents of urban areas in use of medical services—even though rural residents are more likely to have some limitation of activity. Special efforts, perhaps through improved medical transportation systems, will be required to improve access of rural residents to high quality care.

In addition to promoting policies designed to overcome non-financial barriers to access to medical care, federal intervention is required to improve the operation of the market for medical services. The most crucial of these are:

Supplementary measures to control costs of medical services.

Incentives to foster the development of innovative forms of organizing and delivering medical care services.

Measures to assure a desirable mix and supply of medical manpower.

FOOTNOTES

[1] Coverage of out-of-pocket expenses under the personal income tax is equivalent to providing each taxpayer itemizing deductions with an insurance policy which has a deductible equal to three percent of the taxpayer's income and a coinsurance rate that is one minus his marginal effective tax rate.

[2] In 1970, 58 percent of elderly individuals were in families with less than $5,000 income; only 18 percent of the elderly have family incomes above $10,000.

[3] See Charles L. Schultze et al., *Setting National Priorities: The 1973 Budget*, Washington, D.C.: Brookings Institution, 1972, pp. 218-220 for a more complete discussion of the Medicaid program.

[4] Since only those expenses in excess of three percent of income can be deducted, the higher income family has lower total medical deductions. However, the higher marginal tax rate faced by the family with $40,000 income results in a greater tax savings. Comparison here is based on a family of four.

[5] Department of Treasury, *Proposals for Tax Change*, Washington, D.C.: U.S. Government Printing Office, 1973. Originally, the detailed explanation of tax changes included a provision requiring that employer contributions to health insurance plans be

counted as taxable personal income; this provision is marked "deleted" in the report, and presumably is no longer an Administration proposal.

[6] Under proposed legislation, a family of four with income of $10,000 and medical expenses of $4,000 would receive a tax reduction of $665, while a family with $40,000 income and the same medical expenses would receive a tax reduction of $840.

[7] The major disadvantage of such a tax credit plan is the absence of any controls on expenditures above 15 percent of income. The range over which individuals have some incentive to contain costs could be extended by a tax credit which reduces taxes by $.50 for each dollar of expenditures between 10 and 20 percent of income, and dollar for dollar for all expenditures over 20 percent of income. Another possibility is a tax credit which reduces taxes $.80 for each dollar of expenditure over 12 percent of income. This maintains some incentive for the individual to contain costs over the entire expenditure range, but leaves the individual vulnerable to excessively high costs.

[8] Total tax subsidy, including $3.0 billion in 1974 attributable to exclusion of employers' contributions to health insurance plans from taxable personal income, would be $5.6 billion under current legislation and $3.9 billion under proposed legislation.

[9] This differs from the 44 percent given in Table 1 because it applies only to individual health insurance premiums and medical expenses deducted from the personal income tax. Tax subsidies of employer contributions to health insurance premiums, which are excluded here, are concentrated more heavily on low- and middle-income workers.

[10] Indeed the poor health of blacks, reflected in their high mortality rates, reduces the chance that blacks will live long enough to benefit from Medicare at all. Present life expectancies imply that only 56 percent of black babies will live to age 65, compared with 74 percent of white babies.

HEALTH-CARE COSTS

(Statement of Alfred C. Neal, president, Committee for Economic Development)

My name is Alfred C. Neal. I am president of the Committee for Economic Development, which is an organization of 200 leading businessmen and university presidents who study major economic and social issues and formulate recommendations on government and business policy. I am appearing today as a substitute for Philip M. Klutznick, chairman of the CED Research and Policy Committee, who headed our study on health care.

We greatly appreciate the invitation to appear before your Committee. Our concern with the health-care system stems from the involvement of a number of CED trustees in the Steering Committee on Social Problems established by New York Governor Nelson A. Rockefeller. Under the leadership of the late Joseph C. Wilson, chairman of Xerox Corporation and a trustee of CED, the Governor's Steering Committee undertook a national study of health and hospital services and costs. I was privileged to serve on that Committee, which issued its report in June 1971.

A key finding of the Steering Committee was that the way in which health-care services are delivered today—the organization of the delivery system—virtually assures the nation of a continuing spiral of inflation because of the lack of incentives for control of costs. Moreover, the misallocation of resources in the health-care system has produced inadequate care for many people in our society.

The Governor's Steering Committee underscored the important role that the federal government can play in bringing about reform of the health-care system that will result in less costly service. It is a theme which the CED report develops in greater detail. The Steering Committee said that "any new public funds should be used as a lever for change in the delivery system, and that such funds should contain enough incentives to produce voluntary movement toward efficient, effective and more economical health-care systems." Thus the Steering Committee emphasized that it would be a disservice to the nation to set up a national health insurance system without improving the way in which health services are delivered.

The Committee for Economic Development, whose trustees constituted almost half of the Governor's Steering Committee, built upon the foundation of the Steering Committee report. Under Mr. Wilson's chairmanship we undertook a more detailed study on ways of reforming the delivery and financing of health-care services and particularly of ways to make financing contribute to reform of the system. After Mr. Wilson's sudden and untimely death in late 1971, we were able to prevail upon Philip M. Klutznick to serve as acting chairman of the health-care panel.

We were aware of the dangers in trying to make essentially lay judgments in a highly complex professional field. Nevertheless, as Mr. Wilson had put it, "health care, as an industry, is not unlike many other American industries which are equally far-flung, extraordinarily complex, and yet are susceptible to rational managerial evaluations." It was our feeling that the business community could make an important contribution by bringing the experience of management to bear on an extraordinarily complex and disorganized system.

We were greatly aided in our work by a number of outstanding professionals in the field, including Dr. Jerome Pollack, Professor of Economics of Medical Care at Harvard Medical School, who served as project director for the CED study. We issued our report in April 1973, and I am attaching a copy as an exhibit. The names of those who are responsible for the report are listed on pages 5 and 6.

After an intensive investigation of the delivery and financing of health care, we concluded that even if vastly greater resources are poured into the health-care system, the goal of providing adequate health care for all will continue to elude the nation unless the delivery of health-care services is substantially restructed. We therefore set forth a number of recommendations, which I shall discuss later, to improve the organization of the health-care system. It is this group of recommendations which CED believes holds the greatest promise for keeping down the cost of health care.

At the same time, we had to come to grips with a separate but related problem—the need to provide adequate health care for *all* Americans. The problems as we saw it was not simply to keep down costs but also to assure access to health care as a right to all. The central question we faced was how to convert this right into reality—how to convert an aspiration into skills, services, facilities, and systems available to the people.

In the past, the national mode of response has been to deal separately with each shortcoming of the system in a succession of crises—in facilities, manpower, financing, or social policy. We believe that this is no longer tenable and that a serious effort to improve health care must embrace (1) the restructuring and redeployment of the health-care delivery system, with an effective control and planning mechanism and (2) an enlarged insurance system to assure universal coverage. Most important, a coordinated approach to these two essential components of any national health-care system is essential in order to avoid the danger of inflated health costs that do not produce increased services.

INFLATION IN HEALTH COSTS

The scope of the inflationary problem is well known. The United States devotes a greater share of gross national product to health care than any other nation. The amount of money spent should provide better care for all our people. While it is true that U.S. health services have broadened in scope, and are used with greater frequency and intensiveness, costs have risen beyond the capability of many people and the local levels of government. Total national health expenditures climbed from $12 billion in 1950 to $83 billion in 1972, or from 4.6 per cent to 7.6 per cent of Gross National Product. By far the largest element in the increase in expenditures for personal health since 1950—nearly one-half—is attributed to price rises rather than to greater utilization of services and the introduction of new techniques. Largely as a result of inflation, from 1965 to 1972 alone the nation's health-care expenditures rose from $39 billion to $83 billion. The rate of inflation in the cost of medical services since 1960 has averaged well over half again as much as that of consumer prices generally, and has even exceeded the rate of inflation in the cost of housing.

To stem this massive inflationary tide, CED recommended in July 1972 that the government maintain its wage and price controls in the health-care field. We were pleased to note that this course was followed by the Administration in Phase 3. Wage and price controls should be maintained, moreover, during the inauguration of any national health-insurance program in order to avoid runaway costs during the transitional period. Although market influences, of course, are generally preferable to controls, the market has been shown to work inadequately in the health industry, which is inherently monopolistic. Controls will be needed, therefore, until major structural changes have been accomplished.

THE INSECURE ROLE OF THE CONSUMER

The burden of securing adequate health care today rests almost exclusively with the patient. More often than not, he must find his own way among the various types and levels of service, with only partial help from the provider. In the majority of cases, no one in the medical profession takes responsibility for determining the appropriate level of total care needed and for seeing that such care (but no more) is supplied. Not only does this fragmented "nonsystem" lead to great variations in the quality of care rendered, but it also fails to deliver the comprehensive and preventive care now desired.

A patient may choose a doctor because of the nature of his illness at one time or a specialist of the wrong type because of a mistake in early diagnosis; he may stay with this physician in order to avoid the inconvenience and uncertainty of starting over again with another. Often the patient's resources are too limited to permit him to search for another physician even if he wanted to do so, or he may regard it as unseemly and indicative of a lack of confidence in the doctor on whose good will he depends. Moreover, the prevalence of one-man medical firms often impedes the free flow of patients from one practitioner to another; such firms run some risk of losing the referred patient to the consultant or the hospital.

Although medical care is only one factor contributing to health, it can be literally a matter of life and death. Self-denial because of low income is not the same in this situation as in rationing one's income when purchasing cars, clothes, or television sets. Medical costs can claim an excessive share of a family's income, even for middle-income people, who usually have insurance. The position of the consumer in the health-care marketplace is indeed an insecure and limited one. In purchasing other goods and services the consumer can police the market by shopping around, but this applies far less to medical services. The average consumer knows less about medical service than almost any other service he pays for.

DEFECTS IN THE PRESENT SYSTEM

In the view of the CED committee, the

single doctor in private practice was suited to a time when medical needs could usually be met by the treatment of a single physician but is unsuited to the growing incidence of chronic illness, the trend toward specialization, and toward preventive medicine. The doctor, as the most expensive element involved, must be employed only in tasks calling for his skills. Lesser tasks can be performed by a paraprofessional and other lower paid health personnel. These imperatives call for group practice and other forms of organization. This road to efficiency has been well travelled by business and by other professions.

The present health structure has resulted in a mixture of technical virtuosity among specialists, on the one hand, and inadequacies in the development of minimum essential care, on the other. People generally experience difficulties in securing adequate primary care. Such organizations as the Kaiser Foundation Health Plans have shown the way to remedy this deficiency at reasonable cost.

Although we recognize that the United States possesses some of the finest hospitals and medical centers in the world, we found severe shortcomings also in the way in which hospitals are organized and managed. In recent years, unnecessary facilities were created nationwide while the existing resources of hospitals were not used effectively. Fewer hospital beds would be needed if facilities were adequate for ambulatory care, self-care, and outpatient treatment.

Most studies of patients show that some people in hospitals either do not need to be there or stay too long. Hospitalization is used far less in better organized systems, where the incentives work to treat patients on an ambulatory basis when this is appropriate rather than as inpatients. The excess costs which these inefficiencies create for the consumer is obvious.

The Administration's decision to terminate those segments of the Hill-Burton program involving the construction and modernization of bed facilities therefore seems well justified. We are concerned, however, by the fact that Hill-Burton funding for ambulatory and outpatient care facilities—which represents about one-quarter of the total program—is also being terminated although the development of such facilities can lead to significant savings in the long run.

Basic to the establishment of a national health-care system and reform of the delivery system, therefore, is a greatly accelerated development of community-based ambulatory- and primary-care centers, and organizations that assume responsibility for providing comprehensive and continuous care.

INCENTIVES FOR COST CONTROL: THE HMO

The CED report stresses that until doctors, hospitals, and other providers of health care "work within a system which requires them to respond to effective planning that meets national needs and to become involved in the financial consequences of their decisions, costs cannot be controlled and the system cannot be rationalized." We strongly recommended therefore that to the maximum extent possible, providers of care should be paid on the basis of fees and charges fixed in advance and related to a budget that reflects efficient organization and administration. Ideally, financing of health-care services should be based on prepayment of one annual fee for a family's essential medical needs. The concept of the health maintenance organization represents an efficient way of delivering care under such a payment system. The payment system, in turn, will provide a strong motive for efficient organization and delivery of services.

Although emphasizing preventive care, the HMO provides relatively complete and continuous care for its subscribing clientele. Among the many accomplishments of existing health maintenance organizations are striking reductions in the utilization of inpatient care, as well as improved use of manpower and more complete care at an economical cost to subscribers. The impressive nature of these achievements underlies the growing awareness that the development of health maintenance organizations on a much larger scale would be one of the most effective ways possible to fight the escalation of health-care costs.

Comprehensive prepaid plans have brought competition into health services. We envision these new organizations as operating side by side and competing with conventional practice with the intent of improving the operations of both systems.

Although group-practice prepayment has inspired and stimulated the HMO, it constitutes only one such kind of organization. In order to broaden the base for development and to stimulate innovation in organizational design, diverse sponsorship should be encouraged and is being undertaken, including sponsorship by hospitals, medical groups, foundations for medical care, businesses, consumer and community groups, labor unions, insurance companies, Blue Cross-Blue Shield plans, and academic institutions. There should be room for both profit and nonprofit health-care plans sponsored by all types of organizations that can qualify in terms of capability and responsibility.

In our report we made clear, however, that the potentials of the HMO will not be achieved easily or immediately. There are formidable managerial, financial, and often legal hurdles to overcome in establishing a successful HMO. Nor should prompt public acceptance of this relatively new and unknown form of health-care delivery be expected.

We also called for the repeal of restrictive laws which in some areas limit the right to organize group practices, to provide comprehensive care, and to establish prepayment plans—all of which would result in better health care at lower cost. Archaic legislation and regulation have impeded the development of new comprehensive delivery systems. We endorse efforts by the federal government to secure adoption of model state laws to facilitate the formation and operation of such organizations and urge that the states adopt legislation supportive of HMOs. *We recommend that federal support for state health programs be predicated on the elimination of restrictive legislation impeding improvement in the organization of health care.*

PLANNING AND USE OF RESOURCES

In the course of our study, we became convinced that faulty allocation of resources is a major cause of inadequacies in U.S. health services that result today in poor or substandard care for large segments of the population. While manpower, facilities, and services are lacking in some areas, they are in excess in others. The maldistribution is functional as well as geographical, causing most notably the nearly nationwide inadequacy in primary care while medical specialities often exceed requirements. No adequate effort has been made at overall planning. What confronts the United States is an essential industry—the nation's third largest in terms of people employed—that delivers vitally important services at a level far below its potential capability.

One of our key recommendations, therefore, is the establishment of Regional Health Services Agencies throughout the nation with strong planning powers over facilities and resources. These planning agencies would determine the need for new health-care institutions in each region and would have significant power over the expenditure of federal funds.

The agencies would aid in the establishment of HMOs and would be responsible for supervising the quality of service. Under our plan, the Regional Health Service Agencies would also have effective supervision over pricing and quality arrangements in all HMOs. We are convinced, however, that the planning agencies must not be controlled by those who are the providers of health care and recommended that at least a majority of each board consist of public members.

To provide for the efficient training and use of medical personnel, we recommended the adoption of a national health manpower policy and called for systematic central planning by the office of the Secretary of Health, Education and Welfare to guide the formulation of health training programs. Such programs, the Committee said, should focus on the development of more primary-care physicians and the training of doctors' assistants and other new categories of health personnel. They should also aim at reducing the enormous disparities that have developed in the geographical distribution of medical services, with the six most affluent states averaging twice as many doctors per capita as the six poorest states.

HEALTH-CARE COSTS AND THE FEDERAL GOVERNMENT

It is impossible to emphasize enough the magnitude of the contribution the federal government could make towards ending the spiral of health-care costs by encouraging reform of the delivery system along the broad outlines set forth above. The experience of the Kaiser Foundation Health Plans on the West Coast, which serve over two million people, and other prepaid plans is an indication of the significant reductions in cost and improvements in care that can accrue to the consumer through the use of effective management techniques in the delivery of health care.

We are therefore concerned that while some of the new budgetary proposals in the area of health care would contribute to increased efficiency, others are likely to hinder needed improvements. Thus, projected outlays for improving the organization and delivery of health services, for training paramedical personnel, for building ambulatory health facilities, and for operating local mental health clinics are diminishing. We are concerned not only that social needs be satisfied. We are concerned that absence of reform of delivery systems in areas where uncontrolled federal expenditures are growing very rapidly will, in the not very long run, turn out to be a false saving.

A NATIONAL HEALTH INSURANCE PROGRAM

I have concentrated on the need for reforms in the delivery system to curb the spiraling costs in health care. As I mentioned before, however, our committee was also concerned with the need to assure access to adequate health care for all Americans. In our view, there can be no question that universal health coverage should rank high among our national goals.

The national health insurance plan we proposed would provide a basic level of medical protection for everyone through a three-part system. Employers would be required to provide health insurance coverage for all employees and their dependents, and Medicare would be continued for the aged and disabled. A third category would extend insurance coverage on an income-related basis to over 20 million people—mostly poor, nonwhite, unemployed, and self-employed—who now have no medical coverage. The federal government would finance the costs for the poor.

Our Committee made a strong commitment to the principle of universal coverage with the ultimate objective of a high level of benefits for all. However, because of the inadequacies of the delivery system, we insisted that the new health insurance plan should at first cover only basic needs and that benefits should be phased upward only as appropriate changes take place in the organization of the health-care system. In the Committee's view, the high quality of the medical professions in the United States and the substantial resources devoted to

health care are an indication that the goal of adequate health care for all is within reach. But remembering the inflationary surge after Medicare, we felt that making more money available without improving the delivery of health-care services would merely serve to increase costs without producing better care.

In making our commitment to universal coverage, we were greatly encouraged by the strengths and resources of the present health-care system and were determined to build upon them rather than starting over again with a different system. We were impressed by the firm base that already exists for a national health insurance system through the substantial coverage now provided by both private and public insurance plans, including the massive employer-based plans which provide coverage to over 150 million people.

Under the employment based coverage, employers would be required to provide health insurance coverage for all employees, with costs typically shared between employers and employees. The Committee recognized, however, that this requirement could pose some hardships for small or marginal business. We therefore recommended that a specified ceiling such as a percentage of wages be placed on contributions of both employers and employees. Where costs exceed this ceiling, we suggested a sharing of costs through an insurance pooling mechanism.

Under the third category a fundamental change recommended in our report is the establishment of "community trusteeships," which would administer the funding of health insurance and the organization of care for those not covered through an employment-based plan or Medicare—the poor, unemployed, self-employed, or part-time workers. Individuals insured under community trusteeships would contribute to the plan on a sliding scale, based on income, family size, and employment status, with the federal government paying the rest of the cost. Payments would not be required for those whose income is below the national poverty level, and Medicaid would be abolished.

The national health insurance plan which we recommended would provide continuous coverage for all, without interruption for any cause. Treatment would not be delayed for determination of liability for payment, and care would not be foregone or deferred because of inability to pay.

We estimate that our recommendations would add something less than $5 billion to the nation's health expenditures over present anticipated costs and would reach this level only after the entire set of basic benefits has been phased in. For the longer run, the additional costs implied by our financing recommendations should be offset at least in part by the better utilization of resources and cost reductions resulting from basic management improvements.

Shortly after enacting Medicare, Congress reaffirmed its conviction that "fulfillment of our national purpose depends on promoting and assuring the highest level of health attainable for every person." In our report we have recomended a long step towards this goal. The world's wealthiest nation should not aspire to less than adequate health care for all its people.

[Telegram from Marion B. Folsom to the New York congressional delegation]

APRIL 13, 1973.

I suggest you study the policy statement issued yesterday (April 12, 1973) by the committee for Economic Development entitled "Building a National Health-Care System." I was active on the committee and favor the proposal. I strongly urge you to endorse by public statement the general principles outlined in this statement. I would go one step further and recommend that the next statutory increase in social security taxes be used to finance the increased revenue requirement for health insurance and that the payroll taxes be reduced for those in the low income group. This deficit would need to be financed by general revenue.

Also, as you know, the health people in the Rochester area are greatly disturbed over the drastic reductions in the health program proposed by the administration. The Rochester area has received meaningful grants from the Department of HEW and the previous administrations over the past years.

These grants have been matched by dollars from local sources and have been in the forefront of new developments in health services. This sudden and sharp reduction will greatly affect the health care of the area. It will set us back in the areas where we have begun to make real progress. I strongly urge that a more selective basis be used to bring about reductions. Savings may be made by postponing the Hill-Burton program and manpower and other long-range programs so that the more effective program can be continued.

The Rochester experience is a clear demonstration of the objective of President Nixon that Federal funds be used to encourage the private sector to marshall its resources.

MARION B. FOLSOM.

STATEMENT OF SENATOR HUBERT H. HUMPHREY

This morning the Subcommittee on Consumer Economics begins two days of hearings on the costs of medical care, a significant factor in the high cost of living.

People in this country should enjoy the best medical care in the world. Yet we are not meeting this potential. We have the best physicians, the best hospitals and the best schools. But all of these resources are useless to those men, women and children who cannot get to them when in need or to those who just don't have the money to buy the medical care that is available.

Over the past 20 years the cost of medical care has soared.

In 1950, personal health care spending was $12 billion. But in fiscal 1972, the total bill was $83.4 billion.

In 1950, the protection of health consumed about 4.6 percent of the Gross National Product, or $78 per capita. In 1971, it consumed 7.4 percent of the GNP, or $358 per capita. During last year alone, health costs jumped by $26 per person.

We spend a larger percentage of our GNP and more money per person on health care than any other people.

How healthy are we as a result of all these outlays? In 1970, the United States ranked 15th in the rate of infant mortality among industrial nations.

For those that survive, the life expectancy is generally shorter than in other developed nations. In 10 nations, the expectancy for females exceeds the 73.8 year average for the United States, for blacks and other minorities, the American life expectancy is significantly shorter.

Despite the facts, the Administration's view of these problems seems less than urgent. HEW Secretary Elliot Richardson indicated that Administration proposals would be presented near the end of last year. That deadline was later postponed with the promise that the proposals would accompany the 1974 budget.

In his confirmation hearings, the new HEW Secretary, Caspar Weinberger, indicated that they would be available sometime in February or March. February and March have come and gone and all Congress has seen is the 1974 budget.

And this 1974 health budget gives little promise of helping Americans to meet their health care needs. In fact, the impact of this budget will be to make the situation worse for many people.

For example, the Administration would like to reduce medicare payments, thus increasing the patient's cost for an average hospital stay by about 125 percent. An average hospital stay today costs the medicare covered patient $84. If the Administration's proposals are enacted the cost of the average hospital stay to the medicare covered patient will be $189.

The Administration wishes also to:

Phase out Federal support for community mental health centers;

Terminate Federal support for hospital construction;

Drastically cut aid to medical schools and students;

End Federal support for regional medical programs; and

Reduce funding for disease control programs.

This Administration program, if it can be called that, seems to be withdrawal on practically all fronts. And yet the Congress has been provided with little information which would justify these changes or even show that they have received careful consideration.

Today we are fortunate to have several expert witnesses to discuss the cost and availability of medical care, including the effects of the Administration's program, as part of our series of inquiries into the high cost of living.

Our first witness is Dr. John Cooper, president of the Association of American Medical Colleges. Dr. Cooper had a distinguished career as a Professor of Biochemistry and Dean of Sciences at Northwestern University before coming to the AAMC. He is, therefore, in an excellent position to discuss the impact on medical schools and general research of the 1974 budget.

The next witness will be Dr. Karen Davis, a Research Associate at the Brookings Institution. Doctor Davis has been a Brookings Economic Policy Fellow at the Social Security Administration and Assistant Professor of Economics at Rice University. She is an expert in health insurance and the causes of rising hospital costs.

Our third witness is Dr. Alfred Neal who is president of the Committee for Economic Development. The CED is one of the very few institutions which has outlined an overall strategy for providing health care. We are pleased to have Doctor Neal with us today to discuss their proposals.

[From the Pioneer Press, May 7, 1973]

HOSPITAL FEES UP 7.7 PERCENT; DAILY CHARGE OVER $100

Average daily hospital charges rose to $101.65 throughout Minnesota—topping $100 a day for the first time—in the year ending March 31.

That was an average increase of 7.7 per cent since March 31, 1972, according to a 12-month study of 183 Minnesota hospitals released Sunday by Minnesota Blue Cross and Blue Shield.

The average daily charge for a hospital stay at the end of March, 1973, ranged from $117.52 in Minneapolis (a gain of 7.9 per cent in the year), $102.72 in St. Paul (up 7.0 per cent), $88.52 in Duluth (up 8.1 per cent) and 87.48 for outstate hospitals (up 8.3 per cent).

Average length of stay during the study period decreased by 0.5 per cent statewide with Duluth showing the only increase—5.5 per cent. Minneapolis showed a 1.6 per cent decrease. There was no change in length of stay in St. Paul hospitals. Outstate hospitals reported an 0.9 per cent decrease.

Minneapolis' average charge per hospital case of $892.46, an increase of 6.2 per cent for the year, led the study. In St. Paul the total charge for an average stay was $849.65, a gain of 7 percent. In Duluth it was $730.91 (up 14 per cent); outstate $514.15 (up 7.3 per cent). For the entire state the average case cost was $714.75, a gain of 7.2 percent.

The average outpatient charge per visit increased 6.1 per cent statewide, from $24.14 to $25.61. In Minneapolis the average rose

8.5 per cent from $26.14 to $28.36; in St. Paul 3.6 per cent, from $27.01 to $27.97; in Duluth 8.6 per cent, from $26.03 to $28.26; and 4.8 per cent for outstate hospitals, from $20.63 to $21.62.

The study, Blue Cross and Blue Shield said, was based on actual hospital charges for their 1.25 million subscribers.

The average daily figures in the sampling (and in the table) include room and board charges and ancillary services which include medications, operating rooms, special services, laboratory and other fees, but not physician charges.

The study points out that while the average figures are roughly accurate for any given area, actual charges can vary widely depending on the severity of the patient's condition. Ancillary services can increase drastically in some cases of serious illness or accident, the report said.

Here are bed patient average daily charges by hospital area for the year ending March 31, 1973 compared with those in the year ending March 31, 1972. The study does not include veterans or proprietary hospitals.

	Mar. 31, 1973	Mar. 31, 1972	Percent change
Minneapolis hospitals:			
Total services	$117.52	$108.93	+7.9
Average stay (days)	7.594	7.714	−1.6
St. Paul hospitals:			
Total services	102.72	95.99	+7.0
Average stay	8.271	8.271	(1)
Duluth hospitals:			
Total services	88.52	81.92	+8.1
Average stay	8.257	7.828	+5.5
Statewide hospitals:			
Total services	87.48	80.79	+8.3
Average stay	5.877	5.930	−.9
Total all hospitals:			
Total services	101.65	94.34	+7.7
Average stay	7.032	7.068	−.5

[1] No change.

[From the Minneapolis Tribune, May 7, 1973]

COST OF STAY IN HOSPITAL RISES 7.9 PERCENT IN LAST YEAR

(By Lewis Cope)

The average cost of a patient's stay in a Minneapolis area hospital was $117.52 a day during the 12 months ending March 31—up 7.9 percent over the year before—according to a Blue Cross study released Sunday.

Federal price controls have a goal of lowering hospital cost increases to 6 percent a year. Hospital charges had been going up about 12 percent a year both in the Twin Cities and nationally before the controls started in late 1971.

The current Minneapolis average is more than double the $54 average in 1965. It had been $108.93 a day during the 12 months ending March 31, 1972.

The Blue Cross survey of its cases also found:

Hospital costs in Minnesota as a whole averaged $101.65 a day during the 12 months ending March 31, up 7.7 percent. This is the first time this state-wide index has gone over the $100-a-day mark.

The average for St. Paul area hospitals was $102.72 a day, up 7.0 percent.

The Duluth average was $88.52 a day, up 8.1 percent.

The daily costs include both room charges (which also cover meals and basic nursing care) and ancillary charges (for everything else on the bill from drugs to x-rays).

The averages are simply that. Actual bills differ since more seriously ill patients are more likely to need more drugs and other ancillary services.

The federal regulations say that hospitals cannot raise their charges more than 6 percent a year, except in rare cases where exceptions are granted.

However, the 6 percent is calculated under complex formulas. Also, some hospitals' officials say part of the average increases reported by Blue Cross may reflect the more intensive treatment some patients now receive.

For example, patients are charged each time they get drugs or lab tests. Hence, if patients are getting more drugs and tests, this could be a factor in increasing their bills.

Minneapolis' 7.9-percent increase is the smallest reported in any Blue Cross study since 1965. Statewide figures are not available that far back.

Stephen Rogness, executive director of the Minnesota Hospital Association, noting that the statewide average increase had reached 14 percent just before price controls started and is 7.7 percent in this latest report, said: "This shows the effect of price controls. The increases are slowing down. Hospitals are complying."

The Blue Cross figures are only for hospital charges. Physicians bill separately for their services.

Blue Cross is the largest insurer of hospitalization in Minnesota. Its case averages are considered the best guide to cost trends. However, they do exclude persons over age 65 covered by federal Medicare.

DAILY HOSPITAL COSTS IN STATE

	12 months ending Mar. 31, 1973	12 months ending Mar. 31, 1972	Percent increase
Minneapolis hospitals:			
Room-board, per day	$57.53	$54.59	5.4
Ancillary [1] per day	59.99	54.34	10.4
Total daily average	117.52	108.93	7.9
Average days stay	7.56	7.71	
Total average bill	892.46	840.31	6.2
Outpatient average charge	28.36	26.14	8.5
St. Paul hospitals:			
Room-board, per day	54.38	51.18	6.3
Ancillary [1] per day	48.34	44.81	7.9
Total daily average	102.72	95.99	7.0
Average days stay	8.27	8.27	
Total average bill	849.65	793.98	7.0
Outpatient average charge	27.97	27.01	3.6
Duluth hospitals:			
Room-board, per day	47.84	44.54	7.4
Ancillary [1] per day	40.68	37.38	8.8
Total daily average	88.52	81.92	8.1
Average days stay	8.26	7.83	
Total average bill	730.91	641.28	14.0
Outpatient average charge	28.26	26.03	8.6
Minnesota averages: [2]			
Room-board, per day	51.06	48.01	6.4
Ancillary pay [1] per day	50.59	46.33	9.2
Total daily average	101.65	94.34	7.7
Average days stay	7.03	7.07	
Total average bill	714.75	666.81	7.2
Outpatient average charge	25.61	24.14	6.1

[1] Ancillary charges are for all of the other things that appear on a hospital bill—such as lab fees, X-rays, operating-room charges, drugs, and certain items of special care.

[2] Includes all outstate as well as metropolitan hospitals.

Source: Minnesota Blue Cross.

Mr. HUMPHREY. Mr. President, in the city of St. Paul, it says, the average hospital room rate is running at about $114 a day, and the average hospital room rate in Minneapolis is running at $117.52 a day.

These statements and articles underscore the importance of the legislation which has been passed today.

As one Senator long interested in the health care of the American people, I want to commend the distinguished Senator from Massachusetts (Mr. KENNEDY), as well as all the members of the subcommittee who have performed so excellently and given us good, sound, constructive legislation.

I listened with great interest to the presentation of the emergency medical services program by the distinguished Senator from California (Mr. CRANSTON). I believe that everyone is indebted to him for his tenacity and perseverance on this subject and also, may I say, for his mastery of the subject matter. I compliment him and look forward to the privilege of supporting the legislation by my vote.

Mr. CRANSTON. Mr. President, I want very briefly to thank the distinguished Senator from Minnesota (Mr. HUMPHREY) for his very generous words, for his support of the legislation, and for the documentation which he has provided for the RECORD backing it up.

I also want to thank the distinguished Senator from Colorado (Mr. DOMINICK) for the very generous words he spoke a few moments ago and, more than that, I want to thank him for his own very cooperative, constructive, and creative approach to this legislation which has enabled us—in good measure, because of his attitude—to carry it so far and so swiftly and with such unity behind its provisions.

I also want to thank the distinguished chairman of the committee, the Senator from New Jersey (Mr. WILLIAMS) and the chairman of the Health Subcommittee, the Senator from Massachusetts (Mr. KENNEDY), for their magnificent help in connection with this measure.

Mr. BEALL. Mr. President, as a cosponsor and as a member of the Health Subcommittee, I urge the enactment of S. 504, the "Emergency Medical Services Systems Development Act of 1973".

This measure is designed to encourage State and local governments to improve, expand and coordinate emergency medical care and services in the Nation so as to prevent needless loss of lives.

As reported the legislation would:

First. Authorize a 3-year, $225 million program for grants and contracts to units of local governments for the development of emergency medical services systems.

Second. Authorize an additional $15 million over a 3-year period for research in emergency medicine techniques, methods, devices, and delivery.

Third. Authorize the Secretary of the Department of Health, Education, and Welfare to promulgate standards of criteria for the various components of emergency medical services system.

Fourth. Establish a National Emergency Medical Services Advisory Council.

Fifth. Create at the Federal level an Interagency Technical Committee to coordinate Federal programs and activities for emergency care and services.

Sixth. Provide special emphasis in health manpower programs for interdisciplinary training of health personnel in the provisions of medical care in emergency situations.

Mr. President, the bill before the Senate today is the product of considerable work and effort. It is designed to respond to what former Secretary of Health DuVal aptly labeled the "hidden crisis in health care." This is an area in which I have been greatly interested and exceedingly active. In addition to cosponsoring S. 504, I also introduced my own bill, S. 654.

The need for an expanded effort in the emergency medical field is apparent from the following alarming statistics:

Injuries are the leading cause of death of Americans age 1 through 38, the second leading cause of death between ages 1 and 48 and the fourth highest cause of death among our total population;

One out of every four citizens in the Nation will have some type of accident this year;

Every eighth hospital bed is occupied by an accident victim;

The National Safety Council estimates that accidents result in the loss of 150,000 lives annually, 55,000 by motor vehicles alone;

Death is only part of the story as accidents also result in approximately 10 million disabling injuries leaving some 400,000 individuals totally disabled.

The total cost of these injuries is estimated at $25 billion. All of us are potential victims. I attempted to illustrate the magnitude and gravity of this problem when I introduced my bill in the last Congress by comparing the deaths and the cost of the tropical storm Agnes which had swept the east coast that year and it had been front page news.

I noted that during the 6 days that Agnes raged through the east coast, 118 lives were lost and the national damage was estimated at $3 billion. I pointed out that on each day that Agnes swept the coast, an average of 316 of our citizens died of injuries resulting from accidents, for a total of 2,212 victims over the same 6 days that Agnes killed 118 citizens. That comparison indicated the size and seriousness of the problem and the urgency for action—action that may mean the difference between life and death for the 316 Americans who will die from accidents today and the 316 who will die tomorrow, the next day and so on.

Another way of emphasizing the same point is that since S. 504 was introduced, approximately 35,708 Americans have died from accidents.

The public, however, tends to regard such accidents and the resulting death and disabling therefrom as unfortunate occurrences that are inevitable. This premise was not and is not accepted by our military, with the result that a trauma victim during the Vietnam conflict had a better chance of survival than a similar victim here in the United States. This is because our military, during World War II and the Korean war, developed an organized system of transporting and treating emergency victims. This procedure was further perfected in Vietnam until former Secretary of Defense Laird was able to say that the death rate of trauma victims in Vietnam was near zero.

Mr. President, there is no question but that the technology and know-how exists to make similar dramatic improvements here at home. Some States and cities are beginning to move in this area. We need not only to rationalize and categorize our emergency facilities and services and make available the resources necessary to enable the application of these known lifesaving methods.

It should be pointed out that heart attack victims could also benefit from improved emergency care arrangements, with some experts estimating that proper and early care might save 150,000 heart attack victims annually.

President Nixon has responded to this neglect in the emergency care area by instituting a research and development effort to demonstrate improved emergency care and services in the United States. I am particularly pleased that my State of Maryland has been a pioneer in this field. We probably have the most sophisticated trauma center in the Nation, located at the University of Maryland Hospital in Baltimore. A system of rapid transportation has been developed, utilizing a helicopter system operated by the Maryland State Police, and I might add that my colleagues in the Senate should see and talk to these men who daily fly lifesaving missions in Maryland. Their spirit, dedication, and belief is immediately apparent.

The Maryland University Trauma Center, which has recently been renamed the Institute for Emergency Medicine, the Johns Hopkins University Hospital Pediatric Trauma Center, the Baltimore City Hospital-University of Maryland Neonatal Centers, the Baltimore City Hospital Burn Center, the special coronary units, community hospitals and the paid and volunteer ambulance service provided the Baltimore area and other areas of the State, mean that Maryland has the component parts and capability to lead the Nation in this vital area. Although the Baltimore area is ahead of the rest of the State in this regard, there is great interest in all areas of the State and in the Washington metropolitan area as well.

As I indicated, I have been working closely with the State and particularly the Institute for Emergency Medicine and others who assure that Maryland's resources, capabilities and expertise in the emergency care area will be available for all of our citizens across the State. Earlier this year I had the pleasure of announcing that the State of Maryland was granted a $1.25 million grant under the President's program, for the development of an emergency medical services communication system, a vital component of a total emergency care system for the Baltimore metropolitan area. This communication system will improve care for victims of medical emergencies by getting the victim to the most appropriate medical facility as rapidly as possible. Hospitals, ambulances, helicopters and medical personnel as a result will be linked by a radio-telephone network.

The project will establish a central dispatch facility, provide 24-hour medical consultation link hospitals with the State Police's medivac helicopter program and provide immediate care for coronary patients through telemetry equipment installed in ambulances.

I believe and the State of Maryland also believes that we should and must move statewide with this emergency care system as soon as possible.

Mr. President, in some areas of health, such as in our attack against cancer and heart diseases, we are often looking for new discoveries or new breakthroughs. In the trauma area I am convinced that the technology and knowhow exists to dramatically reduce the tragic number of accident deaths. This is an area where action will lead to immediate pay-offs in terms of lives saved.

Dr. R. Adams Cowley, the director of the Maryland Institute for Emergency Medicine predicts that accident deaths in Maryland could be cut in half in 2 years.

Action in this area will truly mean the difference between life and death for accident victims. While this legislation is most important and needed, I also want to encourage doctors, hospital administrators and all other members of the health team to get interested and to place the public's interest above the narrower interest of the various health facilities and institutions so that we can develop the best system or systems.

This legislation is needed and necessary. I am convinced that the ultimate success will depend upon not only what is done at the Federal level, but on the responses and actions by the health community and State and local governments.

The PRESIDING OFFICER. 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 legislative clerk called the roll.

Mr. ROBERT C. BYRD. I announce that the Senator from Alabama (Mr. ALLEN), the Senator from Alaska (Mr. GRAVEL), the Senator from Iowa (Mr. HUGHES), and the Senator from North Carolina (Mr. ERVIN) are necessarily absent.

I also announce that the Senator from Mississippi (Mr. STENNIS) is absent because of illness.

I further announce that, if present and voting, the Senator from Iowa (Mr. HUGHES) and the Senator from Alaska (Mr. GRAVEL) would each vote "yea."

Mr. GRIFFIN. I announce that the Senator from Wyoming (Mr. HANSEN) is necessarily absent.

The Senator from Virginia (Mr. SCOTT) is absent on official business.

Also, the Senator from Pennsylvania (Mr. SCHWEIKER) is necessarily absent.

The result was announced—yeas 79, nays 13, as follows:

[No. 141 Leg.]

YEAS—79

Abourezk	Griffin	Muskie
Aiken	Hart	Nelson
Baker	Hartke	Nunn
Bayh	Haskell	Packwood
Beall	Hatfield	Pastore
Bellmon	Hathaway	Pearson
Bentsen	Hollings	Pell
Bible	Huddleston	Percy
Biden	Humphrey	Proxmire
Brooke	Inouye	Randolph
Byrd, Robert C.	Jackson	Ribicoff
Burdick	Javits	Roth
Cannon	Johnston	Scott, Pa.
Case	Kennedy	Sparkman
Chiles	Long	Stafford
Clark	Magnuson	Stevens
Cook	Mansfield	Stevenson
Church	Mathias	Symington
Cranston	McClellan	Taft
Dole	McClure	Talmadge
Domenici	McGee	Thurmond
Dominick	McGovern	Tunney
Eagleton	McIntyre	Weicker
Eastland	Metcalf	Williams
Fong	Mondale	Young
Fulbright	Montoya	
Goldwater	Moss	

NAYS—13

Bartlett	Byrd, Harry F., Jr.	Gurney
Bennett	Cotton	Helms
Brock	Curtis	Hruska
Buckley	Fannin	Saxbe
		Tower

NOT VOTING—8

Allen	Hansen	Scott, Va.
Ervin	Hughes	Stennis
Gravel	Schweiker	

So the bill (S. 504) was passed, as follows:

S. 504

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 "Emergency Medical Services Systems Development Act of 1973".

SEC. 2. The Public Health Service Act (42 U.S.C. 201 et seq.) is amended by inserting after title XI the following new title:

"TITLE XII—DEVELOPMENT OF AREA EMERGENCY MEDICAL SERVICES SYSTEMS

"AUTHORIZATION

"SEC. 1201. To assist in, improve, and expand the provision of adequate emergency medical services in the Nation for the treatment of accident victims and victims of sudden illness, and the handling of other medical emergencies, there are authorized to be appropriated $37,500,000 for the fiscal year ending June 30, 1974, $75,000,000 for the fiscal year ending June 30, 1975, and $112,500,000 for the fiscal year ending June 30, 1976, of which not less than 15 per centum of the sums appropriated in each such fiscal year shall be available only for grants or contracts for rural areas, as determined by the Secretary in accordance with regulations he shall prescribe, for special project grants to and contracts with appropriate governmental entities for the planning and development or expansion of comprehensive area emergency medical services systems. Sums made available under this section may be used for planning, modernization, training and manpower development, communications, transportation, coordination of services and facilities, and other components necessary for the implementation of a plan submitted in accordance with section 1203. In determining the amount of funds to be provided under any such grant or contract, the Secretary shall insure that assistance under this title is provided in connection with any component of such a plan only to the extent that such component is not supported by a sufficient amount of Federal assistance under other titles of this Act or other provisions of law so as to enable such component to meet the requirements established by the Secretary under this title.

"SEC. 1202. Funds appropriated pursuant to this title shall be available for grants and contracts made by the Secretary, after consultation with the National Emergency Medical Services Advisory Council esablished by section 1206, and funds available for grants and contracts for the developemnt or expansion of comprehensive area emergency medical services system under section 1201 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 assist (1) States, (2) political subdivisions, or (3) regional arrangements, compacts, or consortiums (provided that when the emergency medical services system is to serve a geographical area including a standardized metropolitan statistical area (as determined by the Office of Management and Budget), such arrangement, compact, or consortium must comprise at least those units of general local government in such standardized metropolitan statistical area) presenting a plan for a comprehensive and coordinated emergency medical services system to serve a geographical area which encompasses an area at least congruent with an areawide comprehensive health planning agency (wherever such agency exists) 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 1203 set forth in regulations prescribed by the Secretary. Such plan must be reviewed and performance thereunder evaluated by the Secretary at least annually, taking into consideration, in addition to his independent evaluation, the reports of the independent review and evaluation submitted to him in accordance with such plan, and the Secretary may terminate assistance under this title whenever he determines, on the record after opportunity for a hearing in accordance with all provisions regarding adjudications as prescribed in the Administrative Procedure Act (5 U.S.C. 551–559), that performance is not substantially in compliance with such plan.

"SEC. 1203. The plan submitted by an applicant pursuant to section 1202 must include the following—

"(1) provision for a complete and coordinated emergency medical services system to serve the appropriate geographical area, including provision for the effective utilization within such system of the appropriate resources, including personnel and facilities, of all public safety agencies having responsibilities within such area;

"(2) a description of the area emergency medical services planning council established pursuant to section 1204;

"(3) (A) proposals for programs to be carried out under titles III, VII, VIII, and IX of this Act or any comparable provision of any other law and (B) in the event that a sufficient amount of assistance under such other titles and laws is not available to meet the requirements established by the Secretary under this title, 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 necessary training of veterans of the Armed Forces of the United States with training or experience in the health care field and including appropriate public safety personnel) 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;

"(4) provision for a communications system including, at least, a central areawide communications network with appropriate linkages with other area, State, and National networks, and with maximum accessibility for the public through a universal emergency telephone number, telephonic triage screening, 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;

"(5) provision for an emergency medical services transportation system, which shall include such air, water, and ground transportation as is necessary to meet the individual characteristics of the area;

"(6) provision for the operation of easily accessible, continuously operational emergency medical services facilities, with appropriate nonduplicative and categorized capabilities, situated at strategic locations in the area so as to meet the emergency medical services needs of the area;

"(7) 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; and provision for the establishment of agreements for the provision of emergency medical services, on a reciprocal basis, between the area and appropriate neighboring areas where such access in any particular emergency situation would be more appropriate and effective in terms of services available, time, and distance;

"(8) assurances that necessary emergency medical services shall be provided to all patients requiring services (subject to a subsequent determination by the Secretary, in accordance with regulations which he shall prescribe, that the applicant has demonstrated by clear and convincing evidence the infeasibility of so providing in a particular situation) and shall be provided without regard to, or prior inquiry as to, ability to pay;

"(9) provision for developing for submission for approval by the Secretary, within one year of receipt of funds under this title, a plan assuring an operational system for providing emergency medical services during mass casualties, natural disasters, or national emergencies;

"(10) provision for transfer to facilities and programs providing such followup care and vocational rehabilitation as is necessary to effect the maximum recovery and restoration of the patient;

"(11) provision for a program of public education and information in the area served (taking into account the need of visitors to as well as residents in the community to know or be able to learn immediately the means of obtaining emergency medical services), stressing general dissemination of information regarding appropriate methods of medical self-help and first-aid and regarding the availability of first-aid training programs;

"(12) provision for periodic, comprehensive, and independent review and evaluation of the extent and quality of the emergency medical services provided in the area, measured in terms of national norms and standards established by the Secretary in rules made on the record after opportunity for a hearing, in accordance with all provisions regarding rulemaking as prescribed in the Administrative Procedure Act (5 U.S.C. 551–559); and

"(13) provision for a standardized patient recordkeeping system meeting standards established by the Secretary in regulations, which records shall cover the treatment of the patient, from initial entry into through discharge from the emergency medical services system, and shall be consistent with ensuing patient records used in followup treatment and rehabilitation of the patient (subject to a subsequent determination by the Secretary, in accordance with regulations which he shall prescribe, that the applicant has demonstrated by clear and convincing evidence the infeasibility of achieving such consistency).

"AREA EMERGENCY MEDICAL SERVICES PLANNING COUNCIL

"SEC. 1204. (a) The composition of the Area Emergency Medical Services Planning Council to be established in connection with the plan submitted under section 1203 shall include appropriate 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 the 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 in the area, 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 serving the area, of firms, organizations, and other entities having responsibilities related to the provision of emergency medical services located in the area, and of the general public in the area who are not related to the provision of health care and who shall comprise at least one-third of the Council's voting membership. To the maximum extent feasible, representatives of providers shall be selected so as to represent professional, paraprofessional, and nonprofessional personnel, and representatives of the general public shall be selected so as to represent all significant segments of the population to be served.

"(b) The functions of such Council shall include development, in consultation with the congruent areawide comprehensive health planning agency or agencies (if any) established pursuant to section 314(b) of the plan to be submitted under section 1203 and shall include continuous monitoring and evaluation of the operation of the emergency medical services system with a view to making recommendations for the improved effectiveness of its operation.

"(c) The Council may delegate part or all of its functions and responsibilities under this section to a subgroup which is representative of the various institutions, agencies, groups, organizations, and interests represented in the Council. Meetings of the Council and any subgroup thereof shall be announced a reasonable time in advance in the mass media serving the area to be served and shall be open to the public.

"INTERAGENCY TECHNICAL COMMITTEE ON EMERGENCY MEDICAL SERVICES

"SEC. 1205. (a) 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. The Committee shall meet at the call of the Chairman, but not less often than four times each year.

"(b) The Secretary of each military department (or his designee), as such term is defined in section 101(8) of title 10, United States Code, is authorized to enter into agreements with emergency medical services systems under which agreements equipment and personnel of the armed force under the Secretary's jurisdiction may, to the extent it will not interfere with the primary mission of that armed force, provide transportation and other services in emergency situations.

"NATIONAL EMERGENCY MEDICAL SERVICES ADVISORY COUNCIL

"SEC. 1206. (a) The President shall establish a National Emergency Medical Services Advisory Council with which the Secretary shall consult on a continuing and regular basis in administering this title. The Council shall consist of the Secretary or his designee, the Director of the National Institute 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 1205, and fifteen members appointed by the President, seven of which appointed members shall be members of the general public who are not related to the provision of emergency medical services, and eight shall be individuals experienced in the provision or development of, or the training of personnel to provide, emergency medical services. Those persons serving on the Council by virtue of their filling the enumerated governmental positions shall serve as ex officio, nonvoting members thereof. The President shall designate as Chairman of the Council one of the members appointed from the general public.

"(b) The functions of the Council shall be to advise, consult with, and make recommendations to, the Secretary (through a subgroup which it shall appoint) on applications received for grants and contracts in excess of $35,000 under this title, and to make recommendations to the Secretary with respect to carrying out all provisions of this title, including preparation and review (including any agency appeal thereof) of the annual budget estimate for the program established under this title, and to collect, analyze, and disseminate all data useful in the development of area emergency medical services systems, including the establishment of a national data bank to collect, catalog, maintain, and disseminate, to the maximum extent feasible, the results of the operation of such systems developed with assistance under this title.

"(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 or her 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 title, five shall be appointed for a term of four years, five shall be appointed for a term of three years, and five shall be appointed for a term of one year, as designated by the President at the time of the appointment, except that the initial terms of members appointed from the general public who are not related to the provision of emergency medical services shall be not less than three years.

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 nine voting members of the Council shall constitute a quorum for the purpose of making recommendations pursuant to subsection (b) of this section.

"(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.

"(f) The Secretary shall make available to the Council such staff, information, and other assistance as it may require to carry out its activities effectively.

"(g) The Council shall meet at the call of the Chairman, but not less often than four times each year.

"GRANTS AND CONTRACTS FOR RESEARCH

"SEC. 1207. (a) The Secretary is authorized to make grants to or contracts with public or private nonprofit agencies, organizations, or institutions, for the support of research in emergency medicine techniques, methods, devices, and delivery to be carried out in conjunction with the implementation of a plan submitted in accordance with section 1203.

"(b) For the purpose of making payments pursuant to grants and contracts under this section, there are authorized to be appropriated $5,000,000 each for the fiscal year ending on June 30, 1974, and the next two fiscal years.

"APPLICATION REQUIREMENTS

"SEC. 1208. No application for a grant or contract under this title shall be approved unless—

"(1) the State comprehensive health planning agency established pursuant to section 314(a) and the areawide health planning agency (if any) 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 objections 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 title; and

"(3) the application is submitted in such form and such manner and contains such information (including specification of restrictions of law or regulations in the area to be served with respect to the full utilization of the training and skills of professional and paraprofessional personnel, as defined by the Secretary in regulations, in the provision of comprehensive emergency medical services) as the Secretary shall prescribe in regulations.

"GENERAL PROVISIONS AND LIMITATIONS

"Sec. 1200. (a) Grants under this title shall be paid in advance or by way of reimbursement in such installments and on such conditions as the Secretary determines will most effectively carry out the provisions of this title.

"(b) Contracts may be entered into under this title without regard to sections 3638 and 3709 of the Revised Statutes (31 U.S.C. 529; 41 U.S.C. 5).

"(c) No grants or contracts may be made under this title in support of an emergency medical services system except (1) where all components of such system meet, or (2) in the event the Secretary, in accordance with regulations which he shall prescribe, determines that the applicant has demonstrated by clear and convincing evidence the infeasibility of compliance with respect to each such component, where the plan submitted under section 1203 contains reasonable assurances that each such components will meet, within the first year of receipt of assistance under this title, standards and criteria established in regulations by the Secretary, after taking into account standards established by appropriate national professional or technical organizations, on the record after opportunity for a hearing, in accordance with all provisions regarding rulemaking as prescribed in the Administrative Procedure Act (5 U.S.C. 551–559).

"(d) Reports of independent reviews and evaluations carried out pursuant to the plan submitted under section 1203 shall be submitted to the appropriate area emergency medical services planning council established under section 1204, to the National Emergency Medical Services Advisory Council established by section 1206, and to the Secretary.

"(e) Except as provided in subsections (f) and (g) of this section, notwithstanding any other provision of law unless enacted in express limitation of this subsection, no payments to any governmental body, person, group, or other entity authorized by any Federal law in connection with the development or maintenance of emergency medical services systems or components thereof (except for reimbursement for actual services provided) shall be made pursuant to any such law except in connection with a system approved for the receipt of assistance under section 1202 of this Act.

"(f) Except as provided in the second sentence of this subsection, no funds appropriated under any provision of this Act other than this title, or under any other provision of Federal law, may be used to make new grants or contracts in any fiscal year for the development or expansion of, or research in connection with, emergency medical services systems or components thereof (except for reimbursement for actual services provided) if (1) grants or contracts for such purpose are authorized by this title and (2)(A) all the funds authorized to be appropriated under this title for such fiscal year have not been appropriated for such year or (B) an amount equal to the amount of funds so authorized to be appropriated has not been obligated in such year. In the event of the applicability of conditions (1) and (2) in the preceding sentence, the Secretary is authorized, notwithstanding any other provision of law, to obligate and expend any such funds for the development or expansion of such systems only in accordance with all the provisions, limitations, and restrictions in this title.

"(g) Nothing in this title shall limit or otherwise restrict the continuation of grants and contracts and the renewal of assistance provided thereunder under other provisions of this Act or other Federal law for the conduct of emergency medical transportation and services programs as long as funds so provided are used in connection with a system approved for the receipt of assistance under section 1202 of this Act and such programs meet the standards and criteria established by the Secretary under this title.

"(h) for the purposes of this title, the term 'State' includes Guam, American Samoa, and the Trust Territory of the Pacific Islands, and the term 'modernization' means alteration, major repair (to the extent permitted by regulations), remodeling, and renovation of existing buildings (including initial equipment thereof), and replacement of obsolete, built-in (as determined in accordance with regulations) equipment of existing buildings.

"REPORTS

"SEC. 1210. The Secretary shall prepare and submit to the Congress, one year after enactment of this title and every year thereafter, a report on the administration of this title, which shall include an evaluation of the adequacy of the provision of emergency medical services throughout the Nation (including a study to determine the legal barriers to the effective provision of medical care in emergency situations and the extent to which the needs for such services are being adequately met through assistance under this title and otherwise) and his recommendations 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."

SEC. 3. (a) Section 1 of the Public Health Service Act (42 U.S.C. 201) is amended by striking out "XI" and inserting in lieu thereof "XII".

(b) Section 772(a) of such Act (42 U.S.C. 295f–2(a)) is amended by—

(1) striking out "or" in clause (12);

(2) striking out "services." at the end of clause (13) and inserting in lieu thereof "services; or"; and

(3) inserting the following new clause after clause (13):

"(14) establish and operate programs and projects in the interdisciplinary training of health personnel for the provision of emergency medical services, especially utilizing clinical experience in emergency medical services systems receiving assistance under title XII of this Act.".

(c) Section 774(a)(1)(D) of such Act (42 U.S.C. 295f–4(a)(1)(D)) is amended by inserting "(including emergency medical services)" after "services" each time it appears.

SEC. 4. Notwithstanding any other provision of law, in the event that an emergency situation requiring immediate medical assistance arises in the course of any journey by an interstate common carrier originating in one State and scheduled to terminate in another, the provision of such emergency medical assistance by a person to any other person in the course of such journey shall be governed by the law of the jurisdiction in which such former person resides or, in the case of a person engaged in the provision of health care services, where such former person is regularly so engaged.

CONTINUED OPERATION OF CERTAIN PUBLIC HEALTH SERVICE HOSPITALS

SEC. 5. (a) The Secretary of Health, Education, and Welfare is directed to take such action as may be necessary to assure that the Public Health Service hospitals which are located in Seattle, Washington; Boston, Massachusetts; San Francisco, California; Galveston, Texas; New Orleans, Louisiana; Baltimore, Maryland; and Staten Island, New York, shall, until such time as the Congress shall by law otherwise provide, continue in operation as Public Health Service hospitals and continue to provide inpatient and other health care services to all categories of individuals entitled, or authorized, to receive care and treatment at hospitals or other stations of the Public Health Service, in like manner as such services were provided to such categories of individuals at such hospitals on January 1, 1973.

(b) It is the policy of the Congress that such Public Health Service hospitals shall (except as may otherwise hereafter be authorized or required by the Congress)—

(1) continue to provide for categories of individuals for which health care services were provided (or authorized to be provided) by such hospitals on January 1, 1973, a level and range of inpatient, outpatient, and other health care services which is at least as great as the level and range of such services which were provided (or authorized to be provided) by such hospitals on January 1, 1973, and

(2) continue to conduct a level and range of other health-related activities (including, but not limited to, training and research activities) which is not less than the level and range of such activities which were being conducted on January 1, 1973.

(c)(1) It shall be the duty of the Secretary of Health, Education and Welfare, in the administration of any and all laws with respect to which he has responsibility, to carry out the provisions of subsections (a) and (b) and he shall take no action (other than action required pursuant to a law enacted after the date of enactment of this Act) inconsistent with such provisions.

(2) Funds appropriated to carry out any activity in furtherance of the provisions of subsections (a) and (b) shall, to the extent necessary to carry out such provisions, be utilized to carry out such activity; and the President shall have no authority to, and shall not, impound or withhold any such funds; except that nothing in this paragraph shall be construed to require the President or the Secretary of Health, Education, and Welfare to expend funds in excess of the maximum amounts which can effectively be utilized in carrying out such provisions.

(d) Nothing in this section shall be construed as authorizing or requiring the conduct of any activity which is not authorized under other provisions of law, nor as an authorization for the appropriation of any funds.

(e)(1) Section 3(b)(2) of the Emergency Health Personnel Act Amendments of 1972 (86 Stat. 1290) is amended by striking the words "Comments (if any)" and inserting in lieu thereof the words "approval of such closing or transfer".

(2) Such section is further amended by striking the comma at the end of paragraph (B) and inserting in lieu thereof a period and by striking the words "after the Secretary has provided each such agency a reasonable opportunity to review and comment on the proposed closing or transfer".

(3) Nothing in this subsection shall be construed as relieving the Secretary of Health, Education, and Welfare from fulfilling any other requirements of this section.

Mr. CRANSTON. Mr. President, I ask unanimous consent that the bill (S. 504) be printed as passed today.

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

The title was amended, so as to read: "A bill to amend the Public Health Service Act to provide assistance and encouragement for the development of comprehensive area emergency medical services systems."

Mr. KENNEDY. Mr. President, I move that the Senate reconsider the vote by which the bill was passed.

Mr. COOK. I move to lay that motion on the table.

The proposal to lay on the table was agreed to.

Mr. KENNEDY. Mr. President, we have passed three significant pieces of health legislation this afternoon. Again I wish to state how much I, as chairman of the Subcommittee on Health appreciate the strong support that we have received from members of the committee on both sides of the aisle. The legislation we passed bears the imprint of the ranking member of the committee, the Senator from Pennsylvania (Mr. SCHWEIKER), as well as the ranking member of the full committee, the Senator from New York (Mr. JAVITS), and the constant efforts of the Senator from Colorado (Mr. DOMINICK) and the Senator from Maryland (Mr. BEALL), who brought forward his program which we considered earlier this afternoon. He has been an extremely active member of the committee.

The minority staff has been of great help to us in this matter. Jay Cutler, John Hunnicutt, Chuck Woodruff, and Joe Carter served their particular Senators well, and I wish to acknowledge their efforts. On our side, the Senator from California (Mr. CRANSTON) has provided considerable leadership in the passage of this bill as well as many other programs. He has been a constant source of strength on this matter as well as other health legislation. I also wish to acknowledge the efforts of the Health Committee staff: Dr. Caper, Lee Goldman, Stan Jones, and Willie Shawcross deserve great credit for their constant attention to detail. I also wish to mention Dan Murray of the Office of the Senate Legislative Counsel and Janet Kline of the Library of Congress who

have been of great help and assistance to us.

Their contributions in connection with the legislation has been of great significance. I thank all of them very much. We look forward to working with the members of our committee as we meet with the members of the House of Representatives in the respective conferences on these bills.

MEXICO-UNITED STATES INTERPARLIAMENTARY CONFERENCE—APPOINTMENT BY THE VICE PRESIDENT

The PRESIDING OFFICER (Mr. McCLURE). The Chair, on behalf of the Vice President, pursuant to Public Law 86-420, appoints the Senator from West Virginia (Mr. RANDOLPH) to attend the Mexico-United States Interparliamentary Meetings, Mexico, May 24-29, 1973.

CONFERENCE ON DEVELOPMENT OF TRADE BETWEEN THE UNITED STATES AND THE FAR EAST

Mr. MAGNUSON. Mr. President, recently, I had the opportunity to participate in a most significant conference on the development of trade between the United States and the Far East.

Titled "Seattle Symposium" the conference dealt primarily with the development of trade and tourism—in view of recent international developments—with the People's Republic of China and with Japan.

The remarks of Edward E. Carlson, president of United Air Lines to that symposium were of great significance, particularly to my part of the country—the Pacific Northwest—and in order to share Mr. Carlson's thoughts with my colleagues I ask unanimous consent that the text of his remarks be printed in the RECORD.

There being on objection, the remarks were ordered to be printed in the RECORD, as follows:

THE NORTHWEST: GATEWAY TO TRANSPORTATION AND TOURISM

Senator Magnuson, Congressman Pritchard, Chairman Timm, Mr. Hosomi, Distinguished Guests, Ladies and Gentleman:

This has been a most fascinating day for me. We have heard a great group of speakers, and judging from their thoughtful comments, tomorrow should be equally stimulating.

Many unusual, interesting and exciting things have happened to me through the years. Not the least was unexpectedly finding myself in a new business career a little more than two years ago.

This is another unusual and unanticipated experience—to speak to the distinguished group participating in this Symposium.

On a personal basis my identity with the Far East, particularly Japan and China, goes back 42 years.

I was 19 years old when I shipped out of here on the President Lincoln as an ordinary seaman at $47.50 a month. The trip took 14 days to Yokohama. At 19 it was exciting to see Tokyo, Yokohama, Kobe, Shanghai and Hong Kong.

In 1960 I returned to Japan and consummated a hotel relationship on behalf of Western International Hotels. For many years I averaged two or three trips a year to Japan, Hong Kong, Bangkok and, in recent years, Singapore. I have many friends in the Far East. I believe I understand some of the interests of the business community.

It is with this background that I am pleased to share some observations with you.

Seattle is the cornerstone of the Pacific Northwest, and it plays a vital role as this region's gateway to the Orient. Looking westward across the Pacific we can at last see the possibility of greater stability and peace in Asia. This single fact is more important to what we discuss today and tomorrow than anything else. It puts within reach what was not possible a year ago, or a little more than a month ago. It forms the basis for a new Pacific community in which nations that border on this greatest of all oceans may deal with each other as true equals. The relationships are not only desirable but are necessary for the self interest of each of us.

Those of us who have lived in Seattle think we are usually well equipped to understand the importance of closer relationships with our Asian friends. In many ways we share common problems. For years the Pacific Northwest was a remote and isolated part of the United States.

In the early years, as I matured both in school and in the business world, I always sensed that the Eastern seaboard was dominant in the trade, culture and education of this nation. That is changing! Today Seattle ranks among our nation's most important ports. It is a great aircraft manufacturing center and a key trade link to Canada and the Orient. As a tourist gateway to the Pacific, it has always been important. Now its true potential becomes apparent.

Tourism is not only a cultural and social bridge, it is a good business and a big business. Japanese tourists, for example, are expected to quadruple in the 1970-1975 period.

Tourism, like trade, flows two ways. For many years it was mostly the Americans who covered the European continent. This is changing. Europeans have rediscovered the Western Hemisphere. Japanese tourists are coming to Hawaii in ever increasing numbers. Japan is in the midst of a travel explosion. This year more than a million Japanese tourists will go abroad. Last year Japan supplied more visitors to the United States than any other country. Surveys by our Department of Commerce show that Japanese tourists travel for many reasons, including the very basic urge to travel itself, which is at least as important as the choice of destination. If we are to promote understanding among people, we should realize that Americans are not the only tourists. We should develop enlightened transportation and tourist programs for our friends from abroad. To do so, we must be aware that the Japanese travel market is price sensitive, and that younger and less affluent men and women are entering the market in great numbers.

We in the United States have always been curious about other parts of the world. Currently there is a great interest in China, an interest so clearly demonstrated by the huge audience which followed television coverage of President Nixon's historic trip to that country, the interest generated by this Symposium, and the nature of the questions asked today. We know that tourism to and from China will develop slowly, but it will provide an important link as we work to strengthen our chain of mutual understanding.

Seattle is a prime gateway for Pacific tourism and trade to and from Japan, China, Singapore—all of the Far East. It has excellent facilities and services, with little of the congestion encountered at other gateways. It is a great port for seagoing transportation and rail connections, with an outstanding airport facility capable of handling substantial increases in volume with ease. The future spotlight should rest right here. It's a natural and, we believe, an inevitable development, providing this area asserts itself by making a commitment—a commitment that business, labor and appropriate levels of government should join forces in making this truly the Seattle Gateway.

Asia has long been isolated. In recent times most contacts between us have been in a setting of conflict or controversy. Now, we can look ahead to a future as partners, not adversaries.

We are all familiar with Japan's economic miracle. This island-nation of modest size is now one of the Western world's three major economic powers. Since 1955, Japan has averaged a 10 per cent rate of growth in real terms. From 1968 through 1970, real growth averaged 13 per cent a year. Japan's Gross National Product should reach almost $400 billion by 1975, and $500 billion by 1980. For over a decade Japan has been our largest overseas trading partner. It is interesting to note that on a per capita basis, every American purchased about $24 worth of products from Japan in 1969, while every Japanese bought almost $34 worth of imports from the United States.

Just as in the years after World War II, we built an Atlantic partnership—a partnership of equals with a unifying Western Europe—we must look now toward a similar Pacific Partnership. Our vision of this new Partnership will be no simple achievement. It will require major efforts on both sides of the Pacific. But it is vitally necesary to all of us. With a true partnership we can produce economic and technological wonders. Without it, we will only produce more conflict. In order to succeed we must have favorable government policy and sound government relationships. Most of all, there must be a strong dedication by American business to the development of the Partnership through the aggressive pursuit of two-way trade on a basis which is founded on integrity, fair dealing and a goal of mutual benefit.

For the United States this is an important period. We are no longer at war. We are turning to the many economic and social problems we must solve. Twice before in this century we faced a similar problem. Twice before we turned inward and produced economic disaster. After the first World War, we had the chance to help other nations and ourselves by lowering tariff barriers. Instead, Congress passed a series of higher and higher tariffs.

The Smoot-Hawley Tariff—the highest in history—caused retaliation and a breakdown of world trade. In turning inward to protect ourselves, we wound up closing first our docks, then our banks, then our businesses. The lesson should be clear to all of us. After a series of expanded trade agreements after World War II, and the passage of the Trade Expansion Act of 1962, we seemed finally to have settled on a path of trade expansion.

But this is not a new problem, and the approach is not that simple. There always has been strong support for protectionism in this country. When Lewis and Clark first reached the Oregon shore in 1805, one of the burning issues in the young Congress was protection of our infant industries and restrictions on foreign trade. When Seattle was first settled in 1853, the same problem was being debated. The tariff issue was one of the underlying reasons for the Civil War. We should learn from our history.

Today we are at another crucial point. Congress is considering another restrictive measure—the Burke-Hartke Bill, which some people consider the most sweeping legislative proposal to curb imports since the Smoot-Hawley Tariff. It has not only the support of long-time protectionists, but the backing of much of organized labor as well. Many unions, once strong supporters of trade expansion, are worried about unemployment resulting from increased imports and the export of jobs.

The concern about job loss, and business loss, is understandable. The suggested cure is not. The facts simply don't support the conclusion. In contrast to the Burke-Hartke Bill, the legislation proposed by Senator Magnuson and the Administration looks to

the legitimate concerns of domestic industry and labor, and recognizes that any return or self-isolation would be self-defeating.

I believe it was 15 or 16 years ago when Senator Magnuson said to me one day, "Somehow, this country must re-establish trade and diplomatic relations with China. With half of the world's population living in that country, it is essential that we somehow ring these two countries together". His statement was quite prophetic.

We were chatting about this in his office a month or so ago, and he said, "Yes, it is good to see a movement in this direction, but you will remember that in some circles, I was badly criticized for my position".

The Senator was right. We are hopeful that appropriate trade legislation will be passed in this session.

We have a lot of evidence demonstrating that foreign trade, and imports alone, create jobs to offset those lost to foreign competition:

1. Jobs associated with foreign trade approach 4.5 million. That's about 6 per cent of total U.S. employment, or the equivalent of the steel and automobile industires combined.

2. We are the world's largest exporting nation. For 1972 we accounted for about 14 per cent, or $48 billion, of the world's exports.

3. Imports alone provide more than a million jobs. Products manufactured abroad must be sold and serviced in the United States. Also, many things made in this country use foreign components or raw materials, and many things made abroad use American components or raw materials.

4. As we curtail imports, foreign governments tend to retaliate. Every billion dollars of exports creates 110,000 new jobs, while every billion dollars of imports supplies goods which would require 88,600 Americans to produce. As a matter of simple arithmetic, if we increase exports nad imports equally, we create more jobs. We must recognize that reality in the United States where only 4 per cent of our Gross National Product is devoted to foreign trade.

It will take statesmanship to produce a good partnership. Any partnership is a marriage in which each party must give up something for the overall good. Successful and prosperous partnerships are based on mutual respect, sacrifice and understanding. We not only have much to give but much to get. What appears to be a short-term sacrifice is in reality a long-term investment. This applies to both sides of the Pacific.

We, in the United States, must recognize that we no longer have the technological superiority in as many areas as we enjoyed after World War II. We must make tradeoffs. We may have to be willing to engage in more joint ventures. We may need joint action on future aircraft development as research, development and production costs continue to rise. It takes seven or eight years to produce positive cash flow on large new aircraft. The venture capital to support those projects is no longer available at a single source, and this applies to both sides of the ocean.

We appreciate the concern of our Japanese friends for their booming textile, electronics and automobile industries. However, the same hard decisions we must make on trade barriers need also be made in other parts of our shrinking planet. Protectionist actions have no more validity in Japan than in the United States. This applies not only to tariff barriers, but other barriers as well. Import quotas, labeling restrictions and other conditions unreasonably applied have similar depressing effects on trade. To sell, we must all buy.

Our new Pacific Partnership should enable us, for the first time, to handle mutual problems. Environmental issues, energy needs, even fishing rights, are common problems which we can handle far better in concert than as individual nations. There are emerging dynamic new societies in the Pacific that should be welcomed into this partnership. They, too, would benefit from, and contribute to, our mutual approach.

Senator Magnuson and Governor Evans understand these problems. They spoke with great conviction on these issues this morning. Many others have deep knowledge of the trade question. But there are many in the nation who do not. It is essential for our people to know how important the Orient is, to know the vital role the Pacific Northwest does and can play as a commercial gateway, and above all, to understand the necessity of expanding our trade both ways.

The President's trip to China last year turned the question of trade with the People's Republic of China from theory to practical reality. This afternoon's panel highlighted the opportunities, as well as the problems, in dealing with the People's Republic. We have no false illusion that there can be massive trade with China immediately.

But we can make a start, and from that start develop steady growth. Both of our nations recognize the bilateral benefits of expanded trade. And this is an area in which political doctrine need not be an emotional factor. After two decades, the United States, between 1969 and 1971, took a series of actions to remove travel and trade barriers with the People's Republic. In February 1972, a joint communique was issued at Shanghai which clearly made the point:

"Both sides view bilateral trade as another area from which mutual benefit can be derived, and agreed that economic relations based on equality and mutual benefit are in the interest of the peoples of the two countries. They agree to facilitate the progressive development of trade between their two countries."

We have learned in the past that step-by-step trade development has far more than economic importance for the nations involved. It builds an atmosphere of confidence and trust, and leads to other economic and political understandings. Like a honeycomb, we can construct a series of inter-related segments—one at a time. In doing this, we recognize that large scale trade and tourism with the People's Republic cannot be an overnight development. But there are clear economic benefits for both sides in having new markets and new sources of supply for imports from China. I look forward to the day when I can be part of the welcoming committee at Seattle when the first airliner from the People's Republic of China lands at Seattle. That will be an important step in forging the new Pacific Partnership which will be a key to our future as individuals and as nations.

Japan and Hong Kong are primary trading partners of the People's Republic of China. This will continue. On the assumption that the Gross National Product of the People's Republic is somewhere in the $75–$100 billion range, its 1970 exports constituted only about two to three per cent of total GNP. Imports fall in the same range. We are all familiar with China's drive for self-sufficiency. This has led it to expanding trade with a number of partners, and away from a single supplier. Although Japan claims a fourth of China's total foreign trade, and Hong Kong is the leading export market for the People's Republic, the number of trading partners continues to increase.

The economic rebirth of Japan causes a mixture of admiration and uneasiness in this country. Most of the uneasiness is misplaced. Many are concerned about the growth of our trade imbalance with Japan, and we have sought economic concessions. The problem should ease because of the overdue revaluation of the yen and the removal of residual import restrictions. But, we will probably have to live with a bilateral trade imbalance for at least the short run. For the long run, as Japan turns away from export-oriented heavy industries, and toward more consumer goods and social needs, the export imbalance should shrink.

All of this brings me back to the role of the Pacific Northwest. In the years before World War II, Seattle was a prime gateway for trade to the Far East. It is only natural for this to happen again. In briefly looking over recent data on United States exports to Japan, it is noteworthy that Seattle not only led other West Coast ports in export shipment growth from 1970 to 1971, but led all other comparable ports in growth percentage. Indeed, Seattle led all comparable ports in percentage growth of exports to all countries. This fact speaks for itself as to Seattle's importance as a trade gateway. The opening of relationships with the People's Republic of China represents a continuing opportunity for Seattle to enhance its economy and assert its position as the United States' focal point for the new Pacific Partnership—the Seattle Gateway.

The people who are participating in this Symposium are the experts. They know far more than I just what the prospects and possibilities for a new Pacific Partnership may be. But I do know that our country, in its finest moments has always chosen the course which was most outward-looking—a course which looked toward cooperation and openness rather than narrow rivalry and suspicion. We again have choices before us. With the work of all of us, our country—heeding the lessons of the past, and looking to the future—will again choose to go outward. Seattle should be a key link in this endeavor.

Thank you for having me at this very significant Symposium.

AMENDMENT OF LABOR-MANAGEMENT RELATIONS ACT, 1947

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar Order No. 130, S. 1423, and that the bill be laid before the Senate and made the pending business, with no further action thereon today.

The PRESIDING OFFICER. Without objection, it is so ordered. The bill will be stated by title.

The bill was read by title as follows:

A bill (S. 1423) to amend the Labor-Management Relations Act, 1947, to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

The Senate proceeded to consider the bill, which had been reported from the Committee on Labor and Public Welfare, with an amendment on page 2, line 5, after the word "trust", strike out "funds"." and insert "funds: *Provided further,* That no such legal services shall be furnished (A) to initiate any proceeding directed (i) against any such employer or its officers or agents except in workmen's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act, and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959".";

so as to make the bill read:

Be it enacted by the Senate and House of Representatives of the United States

of America in Congress assembled, That section 302(c) of the Labor Management Relation Act, 1947, is amended by striking out "or (7)" and inserting in lieu thereof "(7)" and by adding immediately before the period at the end thereof the following: "; or (8) with respect to money or any other thing of value paid by any employer to a trust fund established by such representative for the purpose of defraying the costs of legal services for employees, their families, and dependents: *Provided,* That the requirements of clause (B) of the proviso to clause (5) of this subsection shall apply to such trust funds: *Provided further,* That no such legal services shall be furnished (A) to initiate any proceeding directed (i) against any such employer or its officer or agents except in workmen's compensation cases, or (ii) against such labor organization, or its parent or subordinate bodies, or their officers or agents, or (iii) against any other employer or labor organization, or their officers or agents, in any matter arising under the National Labor Relations Act, as amended, or this Act, and (B) in any proceeding where a labor organization would be prohibited from defraying the costs of legal services by the provisions of the Labor-Management Reporting and Disclosure Act of 1959".

UNANIMOUS-CONSENT AGREEMENT

Mr. ROBERT C. BYRD. Mr. President, having been directed to do so by the distinguished majority leader and having cleared the matter with the distinguished assistant Republican leader and with the able Senator from New Jersey (Mr. WILLIAMS) and other Senators, I ask unanimous consent that debate on the bill, S. 1423, be limited to 3 hours, to be equally divided between and controlled by the Senator from New Jersey (Mr. WILLIAMS) and the Senator from New York (Mr. JAVITS); that there be a time limitation on any amendment thereto of 1 hour; that there be a time limitation of one-half hour each on amendments to amendments, debatable motions, and appeals; and that the agreement be in the usual form throughout.

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

The text of the unanimous-consent agreement is as follows:

Ordered, That, during the consideration of S. 1423, a bill to amend the Labor Management Relations Act, 1947, debate on any amendments in the first degree shall be limited to 1 hour, to be equally divided and controlled by the mover of the amendment and the manager of the bill, and that debate on amendments in the second degree, debatable motions or appeals shall be limited to 30 minutes, to be equally divided and controlled by the mover of such and the manager of the bill: *Provided,* That in the event the manager of the bill is in favor of any such amendment or motion, the time in opposition thereto shall be controlled by the minority leader or his designee: *Provided further,* That no amendment that is not germane to the provisions of the said bill shall be received.

Ordered further, that on the question of the final passage of the said bill debate shall be limited to 3 hours, to be equally divided and controlled, respectively, by the Senator from New Jersey (Mr. Williams) and the Senator from New York (Mr. Javits); *Provided,* That the said Senators, or either of them, may, from the time under their control on the passage of the said bill, allot additional time to any Senator during the consideration of any amendment, motion, or appeal.

ORDER FOR CONSIDERATION OF UNFINISHED BUSINESS, S. 1423, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that following the period for the transaction of routine morning business on tomorrow, the Chair lay before the Senate the unfinished business, S. 1423.

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

ORDER FOR ADJOURNMENT UNTIL 11 A.M.

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 11 o'clock a.m. tomorrow.

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

REVISION OF ORDER FOR RECOGNITION OF SENATORS TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent to revise the orders for the recognition of Senators on tomorrow as follows: After the two leaders or their designees have been recognized under the standing order, the following Senators be recognized, each for not to exceed 15 minutes and in the order stated: Mr. MOSS, Mr. BARTLETT, Mr. JOHNSTON, Mr. BELLMON, Mr. HANSEN, Mr. TAFT. Mr. JAVITS, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

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

ORDER FOR CONSIDERATION OF S. 1672, TO AMEND SMALL BUSINESS ACT, TOMORROW

Mr. ROBERT C. BYRD. Mr. President, I ask unanimous consent that upon disposition of S. 1423, the Senate proceed to the consideration of S. 1672, a bill to amend the Small Business Act.

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 11 a.m. After the two leaders or their designees have been recognized under the standing order, the following Senators will be recognized, each for not to exceed 15 minutes and in the order stated: Mr. Moss, Mr. BARTLETT, Mr. JOHNSTON, Mr. BELLMON, Mr. HANSEN, Mr. TAFT, Mr. JAVITS, Mr. GRIFFIN, and Mr. ROBERT C. BYRD.

There will then be a period for the transaction of routine morning business of not to exceed 15 minutes, with statements limited therein to 3 minutes.

At the conclusion thereof, the Senate will resume its consideration of the unfinished business, S. 1423, a bill to amend the Labor Management Relations Act of 1947 to permit employer contributions to jointly administered trust funds established by labor organizations to defray costs of legal services.

Yea-and-nay votes will occur thereon. There is a time limitation on the bill and amendments thereto.

Upon the disposition of S. 1423, the Senate will take up S. 1672, a bill to amend the Small Business Act, under a time limitation. Yea-and-nay votes will occur on amendments thereto, and on passage of the bill, presumably.

So, I repeat, yea-and-nay votes will occur during the afternoon tomorrow.

ADJOURNMENT UNTIL 11 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 11 o'clock a.m. tomorrow.

The motion was agreed to; and at 5:34 p.m. the Senate adjourned until tomorrow, Wednesday, May 16, 1973, at 11 a.m.

NOMINATIONS

Executive nominations received by the Senate May 15, 1973:

DIPLOMATIC AND FOREIGN SERVICE

Kenneth D. Keating, of New York, to be Ambassador Extraordinary and Plenipotentiary of the United States of America to Israel.

DEPARTMENT OF JUSTICE

Victor R. Ortega, of New Mexico, to be U.S. attorney for the district of New Mexico for the term of 4 years (reappointment).

Brian P. Gettings, of Virginia, to be U.S. attorney for the eastern district of Virginia for the term of 4 years (reappointment).

U.S. ADVISORY COMMISSION ON INFORMATION

The following-named persons to be members of the U.S. Advisory Commission on Information for terms expiring January 27, 1976:

Hobart Lewis, of New York (reappointment).

J. Leonard Reinsch, of Georgia, vice Frank Stanton, term expired.

IN THE ARMY

The following-named officer to be placed on the retired list in grade indicated under the provisions of title 10, United States Code, section 3962:

To be lieutenant general

Lt. Gen. John H. Hay, Jr. [redacted] Army of the United States (major general, U.S. Army).

HOUSE OF REPRESENTATIVES—*Tuesday, May 15, 1973*

The House met at 12 o'clock noon.

Rev. George W. Ingerson, Minister, The Bethel United Methodist Church, Hymeria, Ind., offered the following prayer:

In everything give thanks: For this is the will of God in Christ Jesus concerning you. I Thessalonians 5: 18.

I thank You Lord for the honor and