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Fed Education bill

LEGISLATIVE ANALYSIS

PROPOSALS TO PROVIDE FEDERAL AID
TO
ELEMENTARY AND SECONDARY SCHOOLS

H.R. 2362 - Representative Perkins

S. 370 - Senator Morse

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BACKGROUND

Since 1871 hundreds of bills to provide federal funds for the general support of elementary and secondary schools have been introduced in Congress. On many occasions bills for this purpose have been called up in the House or Senate. (For a history of these bills, and an analysis of proposals considered in 1961 see AEI Report No. 5, 87th Congress, First Session.)

President Kennedy urged the Congress in 1963 to adopt an aid bill including funds for teachers' salaries and classroom construction and this request was repeated by President Johnson in 1964. The pending bill (H.R. 2362 and S. 370) was introduced to carry out the recommendations in President Johnson's Message to Congress on Education delivered on January 12, 1965.

Hearings on the current bill were held in January and the bill was reported to the House on March 8, 1965 (House Report 143, 89th Congress). The proposal is scheduled for early consideration on the House floor.

A summary of the provisions of the pending bill is contained in this Analysis beginning on page 25. The major programs in the bill and appropriation authorizations for the first year are as follows:

Grants for local school districts	$1.060 billion
Grants for textbooks and school library materials	100 million
Grants for local educational centers and services	100 million
Network of Regional Educational Centers	45 million
Grants to State departments of education	25 million
Total proposed for fiscal 1966	$1.330 billion

Estimated distributions of funds under the bill by states are shown in tables beginning at page 42.

The Question of School Needs

Proponents' Arguments. The dominant purpose of the Administration bill is to provide federal grants for schools "where there are concentrations of educationally disadvantaged children." The proposed grants to primary and secondary school districts "can be considered as another very potent instrument to be used in the eradication of poverty and its effects." 1/

The evidence shows that there is a widespread need for expansion and improvement of local schools to meet the educational needs of children of low-income families. For example: as a result of mental tests the ten States with the lowest per capita personal income in 1963 had draft rejection rates well above average. The rates for these States ranged from 25 to 48.3 percent as compared to the national average of 21.6 percent. Dropout rates are higher in low-income areas. Environmental conditions and inadequate educational programs, rather than lack of basic mental aptitude, carry the major responsibility for the failure of low-income children to perform adequately in school.

The school districts which need new programs, techniques, equipment, buildings, etc., to meet this problem are least able to provide the necessary financial support. 2/

The following additional arguments on the question of need are contained in a fact sheet placed in the Congressional Record by Rep. Perkins, sponsor of the Administration bill and Chairman of the House General Subcommittee on Education:

> In the slums, the schools are overcrowded; many are obsolete and unsafe. At least 30 percent of our schoolchildren go to school in classes averaging 30 or more pupils. In remote rural areas, schools often offer inadequate programs in inadequate facilities.
>
> Of the 1.7 million classrooms now operating, nearly one-third were opened prior to 1930 and have since fallen far below acceptable standards. In some of our city slums, about half of all classrooms are at least 50 years old; many are still not fireproof.
>
> Despite a massive effort on the part of our major cities, they generally spend only two-thirds as much per pupil as their suburbs. Up to one-third of the children in these cities are culturally and economically deprived, and from their number stem about 80 percent of all dropouts.
>
> The disadvantaged child is a year behind in mastering school work by the time he reaches the third grade and up to three years behind if he reaches the eighth. Research shows that culturally disadvantaged children have only 1 chance in 1,000 to acquire effective learning habits without the benefit of special preschool orientation. This points to the need for services and facilities in behalf of deprived youngsters.
>
> Over the 1963-73 period, public elementary school enrollments are expected to climb from 29.4 million to 32.1 million, an increase of 9 percent. Meanwhile, in nonpublic elementary schools, the estimated rise is from 5.4 to 5.9 million, also a 9-percent increase. Public secondary school enrollments will go from 10.9 million to an anticipated 14.2 million, up 30 percent; and the nonpublic secondary school enrollments are expected to rise by 38 percent, from 1.3 to 1.8 million.
>
> Since 1946, State and local bonded indebtedness has risen approximately 450 percent, while Federal debt has increased approximately 14 percent. During the same period, State and local taxes have increased approximately 340 percent, while Federal taxes increased approximately 140 percent--before the 1964 Federal tax cut. Quality education requires increased Federal aid.
>
> Few educational agencies have the resources to rehabilitate the victims of poverty or to provide educational programs that will adequately meet the needs of the greatly increased school-age population. 1/

1/ House Report, op. cit., p. 3.

2/ Ibid., p. 2.

1/ Congressional Record, January 12, 1965, pp.584-85.

In response to arguments that State and local governments have the financial capacity to provide adequate schools, advocates of the bill say: "but the fact is, they have not provided them." Moreover, proponents stress the view that the main purpose of the proposed grant program is to meet the "special educational needs" of disadvantaged pupils and they argue that these needs have not been met and that there is no reason to expect State and local governments to meet them without federal aid for this purpose. (On the other hand, opponents say that if the people of the States have not provided adequate programs for the schools it is reasonable to conclude that they are not convinced that the suggested new programs and consequent tax and debt burden are justified.)

Opponents' Arguments. At the outset, opponents of the bill assert that "the oft-repeated description of this bill as 'legislation designed for impoverished children' is wholly misleading." 1/ While the bill declares that the purpose of the school grants is to aid areas with "concentrations of children from low-income families," opponents say: "The catch in all this is that a school district need have only 10 low-income pupils to qualify in some cases, and a county need have no more than 100 such pupils. The wealthiest, having relatively few children of poverty, would be 'cut in' on the benefits without appreciable effect on the problem." 2/ The following table has been cited 3/ to illustrate "the absurd distribution of funds" proposed by the bill:

Administration's school-aid bill—Federal funds for the wealthy

County and State	Family income data			School-age children		1st year funds under administration bill
	Median income	Under $3,000 (percent)	$10,000 and over (percent)	Number in families with less than $2,000 income	Percent of all school-age children	
United States	$5,660	21.4	15.1	4,911,143	11	$972,700,000
10 wealthiest counties:						
Montgomery (Maryland)	9,317	5.5	44.6	2,343	2	572,864
Arlington (Virginia)	8,670	6.0	38.6	1,347	4	235,725
Fairfax (Virginia)	8,607	5.8	37.8	1,994	3	348,950
Du Page (Illinois)	8,570	5.9	36.0	1,853	2	443,794
Marin (California)	8,110	8.8	33.4	1,278	4	338,670
Westchester (New York)	8,052	8.0	36.3	6,210	3	2,189,026
Bergen (New Jersey)	7,978	6.4	32.1	4,631	2	1,315,204
Union (New Jersey)	7,746	7.8	30.5	3,743	3	1,063,012
Montgomery (Pennsylvania)	7,632	7.4	30.7	3,535	3	857,238
Fairfield (Connecticut)	7,371	9.3	29.1	5,629	4	1,553,604
Total eligible children				32,563		
Total funds						8,918,087
10 poor counties:						
Grant (West Virginia)	2,437	64.0	3.0	833	35	$124,950
Falls (Texas)	2,287	60.6	4.0	2,233	41	432,086
Sunflower (Mississippi)	1,790	68.1	3.9	6,184	42	745,173
Knox (Kentucky)	1,722	70.5	1.7	3,137	39	470,550
Tensas (Louisiana)	1,683	70.9	3.3	1,651	41	329,375
Williamsburg (South Carolina)	1,631	68.3	2.5	6,118	41	810,000
Sumter (Alabama)	1,564	72.3	2.7	2,790	43	390,600
Holmes (Mississippi)	1,453	72.0	2.8	4,543	52	547,432
Breathitt (Kentucky)	1,432	76.0	2.0	1,998	39	299,700
Tunica (Mississippi)	1,260	77.8	3.7	2,965	54	357,283
Total eligible children				32,452		
Total funds						4,507,149

Sources: U.S. Department of Commerce, Bureau of the Census, "County and City Data Book"; Committee on Education and Labor, House of Representatives, "Education Goals for 1965" (committee print), pp. 65-126.

1/ House Report, Minority Views, p. 66.

2/ Ibid., p. 70.

3/ Ibid.

Critics of the bill point out that schools in the county with the highest median family income in the Nation (Montgomery, Md.) would get $572,864 the first year under the bill. Moreover, they point out that this would be in addition to over $4 million per year which the county receives now from the Federal Government under the "impacted areas" program.

The U.S. Office of Education estimates that school districts in 94 percent of the Nation would qualify for grants under the poverty concentration test in the bill.

If this money were allocated to the States to help "educationally deprived" pupils without federal control of its distribution, it is inconceivable that any State would pour the funds into such wealthy areas, opponents say. The decision to spread the grants among 94 percent of the counties in the United States, it is argued, was a political decision designed to stimulate widespread support for the program.

Opponents of the bill state that the grant formula is not based upon the financial capacity of the individual States to provide adequate support for their schools. The minority members of the House Committee argue as follows:

> Administration spokesmen allege that the less wealthy States get more funds per pupil if the funds are spread among all the school-age population. This is irrelevant, of course, in a bill supposedly designed to improve schools in impoverished areas. However, even that argument fails. Texas, Maine, and Florida, for example, have approximately equal per capita incomes (which is often used as one index of State ability to support education), yet this bill would give Texas twice as much per school-age child ($31) as Maine would receive ($15), and half again as much as Florida would receive ($21).
>
> Inequalities such as this abound in this distribution scheme. The main point, however, is that no sane program to improve schools serving large numbers of deprived children would pour limited funds into the wealthiest areas of every State in the Union, where most children, rich or poor, already attend the best schools money can buy. 1/

In response to the argument that State and local resources are not sufficient to cope with school needs because of projected increases in enrollments, one expert asserts that the post-war "baby boom" is over and that the rate of enrollment growth will drop from 43 percent during

1/ Ibid., p. 71.

the past ten years to 15 percent during the next ten. 1/ Ten years ago it was argued that massive federal aid was required to help the States and localities educate a "tidal wave" of post-war children. But experts point out that "the schools have weathered the dozen years of rapid expansion and come out ahead. From now on they can look forward to a modest rate of enrollment growth--an average of 1.5 percent annually--which they should have no difficulty assimilating, particularly as long as the economy continues to expand at 4 percent per annum or more." 2/

Opponents of the bill have also challenged arguments by Administrative spokesmen with respect to the capacity of State and local governments to provide sufficient classrooms and adequate teachers' salaries.

Those who contend that State and local governments will not be able to cope with projected increases in school needs in the decade ahead have been reminded of similar predictions a decade ago and of the record since then. Experts recall that a decade ago most students of the subject argued "that prompt enactment of a massive federal aid program was the schools' only salvation." 3/ Ten years ago the White House Conference on Education concluded that educational expenditures would have to be doubled in the decade ahead. In 1958 a study published by the Rockefeller Brothers Fund warned that expenditures for education would have to be doubled in about ten years and would require 5 percent of a $600 billion gross national product. Weakness in State and local revenue systems had given rise to proposals for federal aid, the study said. 4/

Only four years after the Rockefeller Fund Report, opponents point out, educational expenditures exceeded 5 percent of our gross national product (GNP) and GNP reached approximately $555 billion--an increase of $110 billion. Opponents of the bill state that the national investment in education more than doubled during the decade ending in the fall of 1963 (latest reliable data). A comparison of State and local revenues in 1955 with the yield in 1962 shows a rise of 80 percent, according

1/ Statement of Roger A. Freeman, Senior Staff Member, The Hoover Institution, Stanford University, before the Senate Subcommittee on Education, February 4, 1965, p. 5.

2/ Ibid.

3/ Ibid., p. 3.

4/ House Report, Minority Views, p. 68.

to critics of the bill. 1/ Other evidence of "extraordinary progress" cited by the minority members of the House Committee: since 1954 primary and secondary school expenditures increased 77 percent, enrollments 44 percent; during the decade ending with the school year '63-'64 there was a gain in expenditures per pupil in public schools of 50 percent, the number of teachers in all schools increased by 55 percent, and teachers' salaries increased 43 percent. 2/

One of the arguments for federal aid in President Kennedy's Education Message in 1962 was that 600,000 public school classrooms should be constructed during the following ten years. The federal aid bill was not adopted, but during the past ten years 671,000 classrooms were constructed. 3/ In the years ahead the present high rate of construction can be very substantially reduced and still meet anticipated needs, according to one expert. 4/

Grants for Textbooks and Library Resources

Proponents' Arguments. One-fourth of the Nation's public high schools do not provide free textbooks and it has been said that high textbook fees are one of the reasons for the dropout problem. The cost of modern textbooks presents a barrier to their adoption in all but the wealthier school districts. The U.S. Commissioner of Education, Dr. Keppel, summarized the situation as follows:

> For many families the purchase of a child's textbooks is a luxury they can ill afford...A poor family with children in high school may be required to spend $15 to $20 or more per child for up-to-date textbooks--a prohibitive sum when money doesn't exist for many of the barest necessities of life. In 1961, parents spent over $90 million for textbooks--approximately 40 percent of that year's total expenditures for textbooks. Children in families unable to support this extra burden are often turned from the halls of the school to the alleys of the slums. We cannot afford this loss. 5/

1/ Ibid., p. 69.

2/ Expenditures and salaries in constant '61-'62 dollars. See House Report, p. 68.

3/ Freeman Statement, op. cit., p. 6.

4/ Ibid.

5/ Hearings Before the General Subcommittee on Education of the House Committee on Education and Labor on H.R. 2362, January 22, 1965 (hereafter cited as "House Hearings"), p. 93.

Educational specialists point to the growing importance of well-stocked libraries, professional librarians, and up-to-date library materials. According to specialists in this field, excellent collections of materials for children in grades one through six is just as important as for senior high school--in fact, more so. 1/ The Commissioner of Education takes the view that "this country ought to be ashamed of its present handling of libraries in the schools." 2/ Advocates of federal grants for school library resources state that the following tables show "the appalling extent to which library resources are not available to our elementary and secondary school systems."

Public schools with and without school libraries, 1960–61

Educational level	Total number of schools	With libraries		Without libraries	
		Number	Percent	Number	Percent
U.S. total	102,487	47,546	46.3	54,941	53.7
Elementary only	75,773	23,679	31.2	52,094	68.8
Junior high only	5,705	4,934	86.4	771	13.6
High school, or senior high, only	9,017	8,502	94.2	515	5.8
Junior-senior high, only	3,795	3,678	96.9	117	3.1
Combined elementary and secondary school plant	8,197	6,753	82.3	1,444	17.7

Public school pupils with and without school libraries, 1960–61

Educational level	Total number of school pupils	With school libraries		Without school libraries	
		Number	Percent	Number	Percent
U.S. total	35,952,711	25,300,243	70.3	1,652,468	29.6
Elementary, only	21,063,893	11,206,912	53.2	9,856,981	46.8
Junior high, only	3,829,992	3,623,875	94.6	206,117	5.4
High school, or senior high, only	5,577,572	5,437,191	97.4	140,381	2.5
Junior-senior high, only	2,192,884	2,158,511	98.4	34,373	1.6
Combined elementary and secondary school plant	2,388,370	2,873,754	87.3	414,616	12.6

Source: Statistics of Public School Libraries, 1960-61. Pt. 1. Basic Tables. Mary Helen Mahar and Doris C. Holladay. Washington, D.C., U.S. Department of Health, Education, and Welfare, Office of Education, 1964.

Nonpublic schools with and without school libraries, 1962

Educational level	Total number of schools	With libraries		Without libraries	
		Number	Percent	Number	Percent
U.S. total	14,020	7,764	55.4	6,256	44.6
Elementary	10,105	4,414	43.7	5,691	56.3
Secondary	1,860	1,748	94.0	112	6.0
Combined elementary-secondary	2,023	1,588	78.5	435	21.5

1/ House Report, pp. 8-9.

2/ House Hearings, p. 115.

Nonpublic school pupils with and without school libraries, 1962

Educational level	Total number of school pupils	With school libraries		Without school libraries	
		Number	Percent	Number	Percent
U.S. total	5,116,411	3,213,577	62.8	1,902,834	37.2
Elementary	3,465,712	1,721,051	49.7	1,744,661	50.3
Secondary	776,007	743,678	95.8	32,329	4.2
Combined elementary-secondary	874,553	748,721	85.6	125,832	14.4

Source: National Inventory of School Facilities and Personnel, Spring 1962. George J. Collins, and others. Washington, D.C., U.S. Department of Health, Education, and Welfare, Office of Education, 1964.

One witness before the House Committee submitted the following comparison of library facilities in the New England States with averages in the United States and the standards of the American Library Association. 1/

New England school library statistics compared with averages for the United States and American Library Association standards, 1960–61

	New England	United States	American Library Association standards
Percent of total number of public schools with central libraries.	32	46.3	All schools except 1- and 2-teacher schools.
Average per pupil expenditure for books and pamphlets based on total membership of public schools.	$0.88	$1.47	$4 to $6.
Average number of volumes per pupil in schools with central libraries.	4	5.67	10 volumes per pupil.
Percent of schools not served by school librarians based on total number of public schools.	84.1	67.4	1 librarian for each 300 or 400 students, based on total enrollment of school.
Number of school library supervisors in central offices of public school districts enrolling 150 pupils and over.	10	597	A supervisor for all systems having 5 to 7 or more schools with enrollments of 200 or more students.

Statistics taken from "Statistics of Public School Libraries, 1960-61," pt. 1, basic tables, by Mary Helen Mahar and Doris C. Holladay. U.S. Office of Education, 1964.

Considerable controversy has arisen in connection with federal financing of school textbooks and library resources for public and private schools. The position of a majority of the House Committee members on this issue is set forth in the House Report as follows:

> The committee has taken care to assure that funds provided under this title will not inure to the enrichment or benefit of any private institution by providing that:
>
> (1) Library resources, textbooks, and other instructional materials are to be made available

1/ House Hearings, p. 717. See also House Report, p. 11.

to children and teachers and not to institutions.

(2) Such materials are made available on a loan basis only.

(3) Public authority must retain title and administrative control over such materials.

(4) Such material must be that approved for use by public school authority in the State.

(5) Books and material must not supplant those being provided children but must supplement library resources, textbooks, and other instructional materials to assure that the legislation will furnish increased opportunities for learning.

These conditions can in no way under the terms of the legislation be circumvented, but at the same time, assurance in the administration of the State plan must be given so that the library resources, textbooks, and other instructional materials will be available on an equitable basis to all elementary and secondary school children and teachers.

As has been observed in the administration of this title, the State must conform with the State law and in this connection, it is anticipated that State plans regarding the administration of the program will vary from State to State. In addition to the requirement that the books provided will be books approved for use in the public schools by the public agency in the State having authority to prescribe such books, throughout the legislation the committee has endeavored to conform to the principle of State and local autonomy and control of educational policy. In some instances the State might see fit, in conformance with State law, to utilize or establish a central public depository within a school district or within an area to serve more than one school district from which all elementary and secondary school-children and teachers could 'check out' library resources, textbooks, and other instructional materials under procedures which would assure the State authority an accounting for the use of the material and its proper return for reassignment when the material had served the prescribed period for its use.

The committee has observed that 19 States specifically provide for the provision at public expense of the transportation

of private school students and that 4 States specifically call for the distribution of textbooks to children in private schools. The committee has also observed that some States have regarded invalid various types of textbook and schoolbus laws within the meaning of State law and State constitutions. The committee also considered that one or more of the ingredients which it has used in this legislation to safeguard the separation of church and State may be lacking in such State statutory provisions and court decisions. With the strict conditions which have been imposed by the committee on the operation of title II, in principle, its operation would not be different from the conduct of a public library program which makes available on a loan basis, library materials, unrestricted as to content, to both public and private school students. For this reason, it is hoped and generally felt that when the provisions of title II are considered in the light of particular State laws that all of the States will be able to administer the program in conformity with State law. However, in order to prevent the denial of benefits to children in any State in which a strict prohibition is encountered, section 204 of title II authorizes the Commissioner to arrange for the provision on an equitable basis of such library resources, textbooks, or other instructional materials for the use of children and teachers in such States. In the latter event, only those materials which have been approved for use in public schools may be made available. 1/

Sponsers of the bill point out, also, that in order to obtain grants under this title a State would be required to present an acceptable plan for distributing the books and materials and that the plan must "take into consideration the relative need" of the children and teachers in the State. In addition, assurances would be required that the books and materials would be made available to private schools "on an equitable basis."

Opponents' Arguments. The main points made against federal financing of textbooks and library resources for public and private schools are: (1) that the bill does not require that grants be allocated to the States on the basis of need, (2) that it is dangerous for the Federal Government to become involved in financing the purchase of textbooks for public schools, and (3) that serious questions are involved in the proposal to provide federal grants to purchase books for use by private and church-affiliated schools.

1/ House Report, pp. 13-14.

Critics of the proposal point out that while the bill requires assurances from each State that the relative needs of children and teachers within the State will be given "consideration," it would allocate the grant funds ($100 million the first year) among the States pro rata solely on the basis of the total number of pupils in each State. In other words, a State's allotment need not be based upon its relative need for textbooks and library resources, its financial capacity, or the number of low-income pupils concentrated in the State. 1/

Experts have pointed out that the authority in the bill permits grants for the purchase of phonograph records, audio-visual materials, magnetic tapes, periodicals, documents, etc. It is argued that while such modern resources seem to be desirable, advocates of many desirable programs are competing for federal aid. Moreover, some experts in the field of school finance point out that many schools need this money for more urgent purposes.

Opponents of the bill state that "...it is easy to foresee, for example, the situation wherein virtually all textual materials used by private school children will be those approved by public school agencies. Is this a dependency which private school educators and religious leaders really wish to create?" 2/ Aside from the complex constitutional issue, it is argued that the involvement of private schools presents a policy issue: whether enactment of the bill would threaten the independence and integrity of private education. 3/

Supplemental Local Educational Centers and Services. The principal issue regarding the proposal to establish educational centers in school districts throughout the Nation is whether such a federally financed program combined with the proposed regional centers would constitute "a separate system of Federal-local schools responsible only to the U.S. Office of Education." 4/

Some of the points made by advocates of the bill in this connection are set forth in the House Report on the bill as follows: The grants would be made to the local educational agency. The local educational agency must involve persons broadly representative of the cultural and educational resources of the area to be served in the planning and carrying out of the supplementary programs. Such resources include organizations like State educational agencies, institutions of higher education, nonprofit private schools, libraries, museums, artistic and musical organizations, educational radio and television, and other cultural and

1/ House Report, Minority Views, pp. 74-75.

2/ Ibid., p. 75.

3/ Ibid.

4/ Ibid.

educational resources. After making provision for the participation of such persons during the planning and operation of a proposed supplementary service, the local educational agency would submit an application to the Commissioner for a center or service based entirely on the local agency's perception of need and interest. The initiative and responsibility for the establishment and operation of supplementary services thus rests with the local educational agency. 1/

The title establishes an Advisory Committee on Supplementary Educational Centers and Services consisting of the Commissioner as Chairman and eight appointed members. The Advisory Committee is charged with advising the Commissioner on the action to be taken with regard to each application for a grant under this title, the preparation of general regulations, and advising the Commissioner on policy matters. 2/

The House Report includes the following statement:

> The conception, establishment, and administration of programs under this title rest on several perceptions pertinent to the needs and requirements of the Nation's schools. One of the first of these requirements is that the initiative and responsibility for the operation of school programs rest with State and local authority. Another is that the financial strain on the budget of many local educational agencies serves to make it impossible for them to implement many types of programs and services which researchers and educators deem essential to the effective operation of the schools. A third significant point is the growing feeling that local educational agencies ought not to have to underwrite the full burden of providing model or exemplary school programs which benefit the rest of the State or Nation by demonstrating what new ideas of teaching, learning, and school administration can accomplish when transplanted from the laboratory to everyday operation. The programs authorized under title III would stimulate and assist local public educational agencies in the provision of supplementary educational services that are not at present available in sufficient quantity or quality. In addition, the title authorizes the development and establishment of exemplary elementary and secondary school educational programs to serve as models for regular school programs.

1/ House Report, p. 14.

2/ Ibid., pp. 14-15.

Under the terms of this title many kinds of supplementary services could be provided by individual local public educational agencies or by associations of such agencies to enrich the programs of local public elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs. Such services might include guidance, counseling, remedial instruction, school health, pyschological, and social work services. Special educational programs and study areas, operated during periods when schools are not regularly in session, might be provided under the terms of this title. Model or exemplary educational programs designed to encourage the adoption of improved or new educational programs could be established. Specialized instruction and equipment for teaching foreign languages, science, or other academic subjects which are not taught in the schools at present or which could be provided more effectively on a centralized basis could be supported. 1/

The Report continues:

Programs under the auspices of the local public educational agency could be supported under this title which would make available special equipment or specially qualified personnel, such as artists or musicians, on a temporary basis to public and other nonprofit schools, organizations, and institutions. The provisions of this title would allow local educational agencies to support educational radio and television programs. The title would permit support of physical education and recreational programs not available at present. The title would permit the provision of special educational and related services for persons in or from rural areas or who are or have been isolated from normal educational opportunities....

...

In this title the committee has made use of the language 'centers and services' in order to provide local public educational agencies with the greatest flexibility possible within which to exercise local discretion and judgment with respect to the types of projects which will best serve the educational needs

1/ Ibid., pp. 15-16.

of the community. Nothing in this title is designed to enable local public educational agencies to provide services or programs which will inure to the enrichment of any private institution. The bill does not authorize funds for the payment of private school teachers, nor is it intended that this provision authorize the financing of instruction for nonpublic schools. Facilities are not to be constructed nor equipment procured which will be to the pecuniary advantage of any nonpublic institution. Rather it is intended that the local public educational agency, through its preserved autonomy over local school matters, will have wide latitude in fashioning programs of direct benefit and advantage to elementary and secondary school pupils regardless of whether they are enrolled in public schools. 1/

Opponents' Arguments. The Minority members of the House Committee state that this title would authorize the U.S. Commissioner to establish "model" schools at the local level upon terms and conditions to be specified by him. He would make direct grants of 100 percent of the cost to a local educational agency selected by him. A State government, they point out, "would only have the empty authority of making recommendations concerning them." The position of the Minority members of the Committee is summarized in the Report of the bill as follows:

Stripped of all its unessential language, this title would permit the establishment in every State of a separate system of Federal-local schools responsible only to the U.S. Office of Education.

True, the 'proposals' for these centers--which Commissioner Keppel described in his testimony as 'educational institutions'--must originate at the local level from a public school agency. But obviously, since the U.S. Commissioner of Education approves only those which meet whatever criteria he may establish, such proposals must finally take the form prescribed by the Commissioner.

Are these centers really schools? The bill says that the funds shall be used for--

the establishment, maintenance, and operation of programs, including the lease or construction of necessary facilities and the acquisition of necessary equipment,

1/ Ibid., pp. 16-17.

designed to enrich the programs of local elementary and secondary schools and to offer a diverse range of educational experience to persons of varying talents and needs by providing supplementary educational services and activities such as--

> developing and conducting exemplary educational programs *** for the purpose of stimulating the adoption of improved or new educational programs *** in the schools of the State;
>
> comprehensive guidance and counseling, remedial instruction, and school health, psychological, and social work services ***;
>
> comprehensive academic services *** for continuing adult education;
>
> specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects ***;
>
> making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary or other basis to public or other nonprofit schools, organizations, and institutions;
>
> other specially designed educational programs which meet the purposes of this title. 1/

The notion that these educational institutions would be completely local affairs, opponents say, "is pure fantasy" because the local agency would depend on the federal authorities for 100 percent of the funds. The Minority comments on the control aspects of this program as follows:

> The choice presented by this title should and must be clear, however Congress may decide the issue: It is a choice between (1) our historic pattern of local public education controlled locally under State law and (2) the establishment of a separate public education system financed and administered by a Federal agency. The committee even rejected an amendment to require that these Federal-local schools be administered in accordance with State law.
>
> If Congress approves this title in this form, we shall have clearly abandoned the concept of State responsibility for public education. This is not a question of Federal aid; it is a question of Federal responsibility, and control. The notion advanced by Commissioner Keppel that these centers would be completely local affairs cannot be supported. It is pure fantasy to suppose that a local school board, which comes to the Federal Government for 100 percent of the funds to run an operation which can be approved only by the Commissioner, is dealing at arms length and upon terms of equality.
>
> We urge that the Congress not give the U.S. Office of Education such authority until each Member understands exactly what is being authorized, and until the American public has had an opportunity to express informed views on this issue. 1/

1/ House Report, Minority Views, pp. 75-76.

Network of Regional Centers and Grants to State Departments of Education

Proponents' Arguments. This portion of the bill would broaden the Cooperative Research Act of 1954 (Public Law 83-531). The existing Act authorizes the U.S. Office of Education to enter into contracts with colleges and universities and State departments of education for the conduct of research in the field of education. The proposed amendments would expand the authority for this work and authorize the establishment and operation of a network of regional educational facilities. The work planned for the regional facilities has been outlined as follows:

> Title IV authorizes the establishment of a series of national and regional educational laboratories providing comprehensive support of educational research, development, dissemination, and training. Through this program artists, historians, mathematicians, and other scholars would work closely with psychologists, sociologists, teachers, and administrators from local school systems to conduct research, develop it into forms that can be used in classrooms, continually test and retest

1/ Ibid., pp. 76-77.

these new forms, train teachers in their use, and make research results available to local school systems.

Involvement of different types of intellectual talent as well as different types of educational concerns will be crucial to a broad-based laboratory program. The scholar, the researcher, the local schoolteacher, and the administrator would work together as a team to develop high-quality programs for a wide segment of the student population. The laboratory program calls for involvement of the educational system at many levels--State departments of education, local school systems, colleges and universities, the proposed supplementary educational centers, and experimental schools. In addition, private research organizations, industry, and other groups in the community with appropriate talent and resources have much to contribute to the activities of the laboratories.

Such cooperation is relatively new but it is already showing promise of becoming a successful educational research strategy. Recently the National Science Foundation and the Office of Education have supported projects with interdisciplinary representation from universities and school systems. Working together, these teams have produced new instructional materials and systems, laboratory equipment, textbooks, teacher guides, and films.... 1/

Expanded research, development, and dissemination opportunities call for growth and development in the number and types of individuals needed to effectively carry out and continue research and related activities. The need for qualified personnel is becoming critical. Title IV would authorize training opportunities at laboratories and at other institutions.

The critical problem of preparing teachers for the new educational programs now being developed is compounded by a projected increase in demand for new teachers. It is estimated that about 2 million teachers will be needed within the next 10 years. To meet the demand for an adequate supply of trained teachers, the inservice teacher, the teacher in training, and the teacher of teachers will need special help to grow with the new programs. Much of this help

1/ House Report, pp. 18-19.

could come from the facilities through programs in model schools as well as in local school systems and through the conduct of research on teaching and on teaching teachers. 1/

Expenditures for research and development in the field of education are inadequate, in the view of proponents of the bill:

> A total of $16 million is being spent in fiscal year 1965 under the cooperative research program on these and similar projects. But this is far from adequate to fulfill the need of quality education for all children. During fiscal year 1965 $34 billion was devoted to education, America's largest industry. And yet during the same period, only $72 million, or one-fifth of 1 percent of total educational expenditures was spent on research and development. In comparison, $8 billion was spent in defense for research and development; many private industries devote as much as 10 percent of total expenditures to such activities. The need of 26,000 school districts and 2,600 institutions of higher education demand and deserve a stronger and broader research effort. 2/

The provision to permit federal grants to State departments of education is defended on the ground that it would "strengthen" the State agencies and thereby help them preserve control of education at the State and local level. The proposed interchange of personnel, it is said, would aid the States and the Federal Government in the discharge of their respective responsibilities. Such interchanges would be "entirely voluntary," according to proponents of the bill. 3/

The need for federal financial support of State educational departments has been illustrated as follows:

> There are many examples which might be cited of the problems confronting our State departments of education, but perhaps none is more graphic than that given in Commissioner Keppel's testimony relating to a medium-sized department in a middle-income State. In this State, 75 professional staff members assist 1,300 schools and 20,000 local school people in the

1/ Ibid., p. 19.

2/ Ibid., p. 18.

3/ Ibid., pp. 20-21.

administration of State and Federal funds and programs, in the improvement of instruction, and in the solution of technical problems relating to building, equipment, materials, etc., but these 75 State consultants can visit the schools of their State on the average of only one-half day every 7 years. The committee cannot conceive that under such circumstances, which are believed to be widespread, it is possible to have effective State educational leadership for the challenges of today and for the awesome responsibilities of tomorrow. 1/

Opponents' Arguments. Many opponents of the bill state that they do not oppose expansion of arrangements with colleges and universities to support research on educational problems as authorized in the existing Cooperative Research Act. But the ultimate impact of this proposal, it is argued, has been "cleverly camouflaged." But the full impact of this proposal is not clear until it is understood that the regional facilities would be tied in with the local supplemental centers serving each school district. Members of the House Committee who oppose the bill explained their position as follows:

> ... According to Commissioner Keppel, it is intended to develop new methods, new curriculums, and new instructional materials and texts, which would then be fed into the schools through the local-Federal system of supplementary centers.
>
> The ultimate impact of the Federal activity is cleverly camouflaged. It represents a two-pronged attack on State control of education, and it is aimed squarely at the essential elements of any school system: Curriculum, course content, methodology, instructional materials, and professional standards for teachers.
>
> This double approach to a firm establishment of the Federal presence in education would be further enhanced by a more extensive subsidization of State education agencies. We note that the Federal funds in title V would not be matched by State funds, which automatically assures a continuing reliance by State agencies upon the Federal subsidy after it has become a standard feature of their operation. If this should not be sufficient to induce a subservient status, a regular interchange of personnel with Washington should complete the work of

1/ Ibid., p. 20.

making every State department of education a branch of the U.S. Office of Education.

> For a number of years, largely through the National Science Foundation, the Federal Government has been instrumental in revising school curriculums in the physical sciences and mathematics. Although some concern has been expressed about the wisdom of a standardized approach to teaching science and mathematics, the objective nature of the factual content of these subjects has insulated this effort from the fear of Federal control. Also, the National Science Foundation has no institutional interest in the administration of public education.
>
> This cannot be said for the U.S. Office of Education. By its very nature it is interested in educational policy, as distinct from the advancement of knowledge in particular fields. The distinction is profound.
>
> Recent amendments to the National Defense Education Act extended the teacher preparation of the Office from the fields of modern languages and student counseling into the areas of English, geography, reading, and history. The research centers in title IV of this bill, and the Federal-local supplementary centers in title III clearly project the Office into every aspect of the school curriculum, including the subjective and politically charged fields of the social sciences.
>
> In terms of our structure of educational control, to say nothing of public policy, this progression of Federal influence in the sciences to Federal influence in the social sciences is a quantum leap toward a centralized, standardized, uniform national school system.
>
> Whether it is wise to make this 'great leap forward' should be a question for intensive national debate. There can be no debate, however, about the fact that such a leap is being proposed. 1/

Federal Controls

Proponents' Arguments. Many of the points involved in the issue of federal control are set forth above in connection with the arguments

1/ House Report, Minority Views, pp. 77-78.

for and against the various programs involved. Some of the leading advocates of federal aid to primary and secondary schools argue that while the bill would authorize the U.S. Commissioner of Education to control the use of the federal funds involved in many ways, it does not contain "any obnoxious form" of control. 1/ It is argued that while aid to education should involve "fiscal control" it need not permit control of education as such--curricula, programs of instruction, etc. Advocates of the bill point out that "direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system" is expressly prohibited by the bill. Similiar provisions apply to the selection of textbooks and library resources. 2/

Proponents of the bill argue that the Federal Government has provided aid to education in various forms for many years without complaints against federal control. They refer to the Morrill Act of 1862 (land grants to colleges); the Act of 1890 making cash grants to land-grant colleges; the Smith-Hughes Act; the Impacted Area Aid Act of 1950; the National Defense Education Act of 1958, and the aid to higher education acts adopted during the last Congress. 3/ In a discussion with Rep. Goodell during the House Committee hearings Secretary Celebrezze asked: "Can you cite to me one example in the hundred years that the Federal Government has been in the area of education where the Federal Government has taken control of a program?" Rep. Goodell answered: "Many examples... I hope we will have some testimony from these people in detail, in the National Defense Education Act and in other programs. I see it in my own local school districts under NDEA. You can talk to any member of Congress around here and see the way that guidelines laid down in detail by the Federal Government end up controlling their decisions as to how they spend the money and where they are able to spend money." 4/ The Secretary took the position that "Guidelines are just for their own use. They ask us...and we have furnished guidelines."

Rep. Thompson argued his view of the control issue as follows:

> ...I would be interested to hear any witnesses... whose testimony is that there has been any obnoxious form of Federal control in any of the programs. There has been fiscal control. In the Eisenhower administration there was fiscal control and it is absolutely necessary. There is fiscal control in the National Defense Education Act.

1/ House Hearings, p. 65.

2/ See Title V, Section 604 of the bill.

3/ See testimony of Secretary Celebrezze, House Hearings, pp. 66-67.

4/ House Hearings, pp. 147-48.

In an analysis of the Smith-Hughes, George-Bardon, and subsequent vocational education acts, you will find that the Federal Government is in the business of curriculums, selection of teachers, maintenance and operation, and buildings. The only obnoxious Federal control that I have seen here has since been repealed and that was the loyalty oath in the National Defense Education Act. It was Federal control; it was obnoxious and it was done away with. That is the only specific instance I have seen of the complaint.

...

...You can't get anyone around here, even those most outspoken in favor of States rights and in fear of Federal control, to say a word in opposition to [P.L.] 815 and [P.L.] 874, yet they provide maintenance, operation, teachers' salaries, the whole bundle, so this is a particularly delightful concept.

Of course I am not one who shares, to the extent Mr. Goodell apparently does, the fear that the Federal Government is going to control education. First, I don't think it is. If I had my druthers, I would say, 'Well, let's not control education at the State and local level, but let's do everything that essentially we can to get them to do what we want. I am no more afraid of the judgment of the Federal Government in the field of education--I am less afraid of it than I am of the judgment of some of the locally elected school boards with respect to the administration of education programs. 1/

Opponents' Arguments. Critics of the proposal take the position that the provision in the bill to "prohibit" control of curriculum, instruction, etc., is meaningless. In the first place they argue that this provision does not "prohibit" such controls--that it does not contain any penalty or enforcement provision, but merely says that the Act does not "authorize" such controls. Moreover, it is argued that the "prohibition" is in direct conflict with various obvious controls spelled out in the bill itself. During the hearings Rep. Goodell made the following statement to Secretary Celebrezze:

> If all you wanted to do was to help the locality in a monetary sense, you could pass the tax resources back to the localities, but you obviously do want to do more than just give them more monetary support. You want to

1/ Ibid., pp. 151-52.

direct them and guide them in certain ways. I have read and reread in every single education measure that comes up here this nice, high-sounding, sweet little paragraph that there will be no control. Then you go right into the center of this bill where the power is, and it is right on page 8. The Commissioner sets the basic criteria for every State plan. The State gets the money only if they have a plan that meets the Commissioner's basic criteria. It describes the criteria in some detail and your regulations will end up being written so they go the way the Federal Government wants them to go. You can say it is not control, but they are telling them exactly how to go about it. 1/

On the question of whether controls have been exercised under existing aid programs, opponents assert that many examples can be cited although the recipients of federal money can hardly be expected to testify on the subject. Also, it is said that controls are inherent in federal financing--that there are subtle ways by which "he who pays the fiddler calls the tune."

Finally, opponents argue that prior programs are not comparable--that we have not had any experience with a vast program of aid to primary and elementary schools. The power to control, they assert, increases as dependence upon federal funds increases. This bill, opponents conclude, ranges over the entire spectrum of elementary and secondary education and "the clear intent is to radically change our historic structure of education by a dramatic shift of power to the Federal level." 2/

1/ Ibid., p. 147.

2/ House Report, Minority Views, p. 78.

SUMMARY OF THE BILL 1/

Authorizations Proposed -- First Year

Grants for local school districts	$1.060 billion
Grants for textbooks and school library materials	100 million
Grants for local educational centers and services	100 million
Network of Regional Educational Centers	45 million
Grants to State departments of education	25 million
Total proposed for fiscal 1966	$1.330 billion

Title I -- Grants for Local School Districts

Policy Declaration. Title I of the bill would authorize grants for local school districts for improvements and expansions "which contribute particularly to meeting the special...needs of educationally deprived children." This policy, the bill declares, is "...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 educational programs...." (Sec. 201)2/

Eligibility. A local school district would be eligible for basic grants the first year if the number of school children (5 through 17) in the district from low-income families is:

(a) equal to 3 percent of all school children in the district but not less than 10, or

(b) at least 100. (Sec. 203)

1/ The pending proposal is an "authorization bill." Two bills are required for programs of this kind: (1) an authorization bill to provide legal authority for the program and to place ceilings on amounts which may be appropriated and (2) an "appropriation bill" to provide funds, not in excess of such ceilings, for the program. The authorization bill, which must be enacted first, is handled by the House Committee on Education and Labor and the Senate Committee on Labor and Public Welfare. Appropriation bills are under the jurisdiction of the Committees on Appropriations.

2/ Title I of the bill would add a new Title II to P.L. 874, 81st Congress (aid to schools affected by federal activities). Section numbers cited in this Analysis under "Title I" are cited as they would be numbered in P.L. 874.

A low-income family for the purpose of determining eligibility is one with an annual income of less than $2,000, or a family with an annual income above that amount if derived from welfare aid for dependent children. New legislation would be required to fix the low-income factor for years subsequent to the fiscal year 1966.

The Department of Health, Education, and Welfare has estimated that approximately 95 percent of the 3,100 counties in the Nation would be eligible for basic grants.

Basic Grants and Incentive Grants. Grants to local educational agencies would be of two kinds: (1) "basic" and (2) "incentive." The amount of a maximum basic grant during a fiscal year would be based upon one-half the average expenditure per pupil in the State multiplied by the number of school children in the school district from low-income families. However, during the first year (fiscal 1966) a grant may not exceed 30 percent of the amount budgeted by the local school agency for that year.

The authority for basic grants runs for three fiscal years beginning July 1, 1965. However, the formula described above would not be authorized under the bill for the two succeeding years. New legislation would be required to fix the formula for the fiscal years beginning in 1966 and 1967.

Where satisfactory census data are not available for use in computing basic grants (as in the case of certain school districts which do not coincide with areas used for census purposes) the bill provides for allocation by the State under basic criteria to be prescribed by the U.S. Commissioner of Education.

Basic grant payments for the first year would total $1.06 billion according to estimates contained in the House Committee Report on the bill. 1/

Special incentive grants would be provided during fiscal years 1967 and 1968 to school districts eligible to receive basic grants for those years. The special incentive grant would be provided to each such school district which has endeavored to increase the quality of the education it provides as measured by per pupil expenditures for education within the school district. (Sec. 204)

Requirements for Approval of Grants. The bill provides that the U.S. Commissioner of Education would establish basic criteria to govern approval of applications for grants from local school districts. The State educational agency would be responsible for approving such applications and before approving an application the State would be required, under federal criteria, to determine:

1/ House Report 143, 89th Congress, 1965, (cited hereafter as "House Report"), p. 5.

(1) That the payments will be used for programs and projects (including equipment and where necessary the construction of facilities) which (A) are designed to meet the special educational needs of educationally deprived children from low-income families, and (B) are of sufficient size, scope, and quality to give reasonable promise of substantial progress toward meeting those needs.

(2) That such agency has made provision for including special educational services and arrangements (such as dual enrollment, educational radio and television, and mobile educational services and equipment) in which educationally deprived children from private elementary and secondary schools can participate.

(3) That the local educational agency has provided satisfactory assurance that control of funds provided under the title, and title to property derived therefrom, will be in a public agency for the uses and purposes provided in the title, and that a public agency will administer such funds and property.

(4) In the case of construction projects, that the project is not inconsistent with overall State plans for the construction of schools, and that the requirements of Section 209 (relating to prevailing wage rates) will be complied with.

(5) That effective procedures, including provision for appropriate objective measurements of educational achievement, will be adopted for evaluating at least annually the effectiveness of the programs in meeting the special educational needs of educationally deprived children.

(6) That the local educational agency will make an annual report and such other reports to the State educational agency, in such form and containing such information, as may be reasonably necessary to enable the State agency to perform its duties. The reports must include information relating to the educational achievement of students participating in the program.

(7) That wherever there is in the area served by the local educational agency a community action program carried on under the Economic Opportunity Act of 1964,

the programs and projects under this title have been developed in cooperation with the public or private nonprofit agency responsible for the community action program.

(8) That effective procedures will be adopted for acquiring and disseminating to teachers and administrators significant information derived from educational research, demonstration, and similar projects, and for adopting, where appropriate, promising educational practices developed through such projects. 1/ (Sec. 205)

A local school board would be entitled to a hearing before the State agency before its application is disapproved by the State agency.

Assurances Required from the States. In order to participate in the basic grants program a State would be required to provide the U.S. Commissioner of Education with the following assurances:

(1) That payments made under the title will be used only for programs and projects which have been approved by the State educational agency under basic criteria to be established by the U.S. Commissioner of Education. That such agency will in all other respects comply with the provisions of this title, including the enforcement of any obligations imposed upon local educational agencies under Section 205.

(2) That appropriate fiscal control and fund account procedures will be adopted.

(3) That the State educational agency will make periodic reports to the Commissioner evaluating the effectiveness of payments under the title and of particular programs assisted under it in improving educational attainment of educationally deprived children, and that it will make such other reports as may be necessary to enable the Commissioner to perform his duties under the title. Assurance will also be required that such State agency will keep such records and afford such access thereto as the Commissioner may find necessary to assure the correctness and verification of the reports. The periodic reports must also contain the results of the required objective measurements. (Sec. 206)

1/ Ibid, pp. 26-27.

An application from a State for permission to participate under the assurances section may not be rejected by the Commissioner until the State is given an opportunity for a hearing.

Federal Payments to States for Administrative Expenses. The bill authorizes the U.S. Commissioner of Education to pay a State the amounts expended by it "for the proper and efficient performance of its duties" under this title. Such payments may not exceed one percent of the total basic grants to local agencies in the State. (Sec. 207) As indicated above, under this title the responsibilties which must be assumed by a State in order to participate in the program include processing applications for grants, enforcement of obligations imposed upon local school agencies, the distribution of grants to local school districts, making reports to the U.S. Office of Education, etc.

Prevailing Wage Rates Required. The bill requires that workers employed on construction projects assisted under the title must be paid wages at prevailing rates as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. (Sec. 209)

Withholding of Payments by U.S. Commissioner. The Commissioner would be required to withhold payments from a State where he determines there has been a failure to comply substantially with any assurance set forth in the application of that State, until he is satisfied there will no longer be any such failure to comply. (Sec. 210)

Judicial Review. The bill provides for judicial review of the Commissioner's action with respect to the approval of applications and with respect to withholding of funds from States. (Sec. 211)

Advisory Council. The President would appoint a National Advisory Council on the Education of Disadvantaged Youth to review the administration and operation of the title. (Sec. 212)

Extension of Aid to Impacted Areas

The bill would extend for two years the provisions of Public Law 874, 81st Congress, as now in effect, which would otherwise expire June 30, 1966. Public Law 874 is the "impacted areas" Act under which federal aid is provided for schools affected by federal activities. (Sec. 5)

Title II -- School Library Resources, Textbooks, and Instructional Materials

Purpose. This title would direct the U.S. Commissioner to carry out during the fiscal year 1966, and each of the four succeeding fiscal years, a program for making grants for the acquisition of school

library resources, textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools. An appropriation of up to $100 million would be authorized for the fiscal year ending June 30, 1966. For the remaining fiscal years of the program, appropriations would be authorized within such ceiling as the Congress may hereafter fix by law. (Sec. 201)

Allotment to States. Sums appropriated to carry out the title would be allotted among the States pro rata on the basis of the number of children in each State who are enrolled in public and private elementary and secondary schools. This allotment provision would not apply to the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands. Instead the Commissioner will reserve up to 2 percent of the amount appropriated and allot such reserved amount among these territories and possessions according to their respective needs.

The section provides that where a State will not need all the money allotted to it, the money not needed will be reallotted among other States.

State Plans -- Requirements. If the State wishes to receive money under the title it must submit to the Commissioner a State plan. To be approved the State plan must contain the following provisions:

(1) It must designate a State agency to act as the sole agency for administration of the plan.

(2) It must set forth a program under which funds paid to the State will be expended solely for acquisition of library resources (which for the purpose of this title means books, periodicals, documents, audio-visual materials, and other related library materials), textbooks, and other printed and published instructional materials for the use of children and teachers in public and private elementary and secondary schools in the State, and for administration of the State plan, including the development and revision of standards relating to library resources, textbooks, and other printed and published instructional materials furnished for the use of children and teachers in the public elementary and secondary schools of the State.

The amount used for administration of the State plan may not exceed for the fiscal year 1966 an amount equal to 5 percent of the grant to the State under the title and, for any year thereafter, an amount equal to 3 percent of the amount granted the State under the title.

(3) It must set forth criteria to be used in allocating library resources, textbooks, and other printed and published instructional materials provided under the title among the children and teachers of the State. These criteria must (A) take into consideration the relative need of the children and teachers of the State for such library resources, textbooks, or other instructional materials, and (B) provide assurance that to the extent consistent with law such library resources, textbooks, and other instructional materials will be provided on an equitable basis for the use of children and teachers in private elementary and secondary schools in the State which comply with the compulsory attendance laws of the State or are otherwise recognized by it through some procedure customarily used in the State.

(4) It must set forth the criteria to be used in selecting the library resources, textbooks, and other instructional materials to be provided under the title and for determining the proportions of the State's allotment for each fiscal year which will be expended for library resources, textbooks, and other printed and published instructional materials, respectively, and the terms by which such library resources, textbooks, and other instructional materials will be made available for the use of children and teachers in the schools of the State.

(5) It must set forth policies and procedures designed to assure that Federal funds made available will be used so as to supplement, and to the extent practical, increase the level of State, local, and private school funds that would otherwise be made available for these purposes, and that such Federal funds will in no case supplant State, local, and private school funds.

(6) It must set forth appropriate fiscal control and fund accounting procedures.

(7) It must provide for making such reports as the Commissioner may reasonably require. (Sec. 203)

Title and Control in Public Agency. Title to library resources, textbooks, and other printed and published instructional materials furnished under the title, and control and administration of their use, must vest in a public agency. The library resources, textbooks, and printed and published instructional materials made available under the title would be limited to those which have been approved by an appropriate Stat

or local educational authority or agency for use, or are used, in a public elementary or secondary school of that State. (Sec. 205)

Arrangements by Commissioner in Absence of State Agency. In a State in which no State agency is authorized by law to provide library resources, textbooks, or other printed or published instructional materials for the use of children and teachers in any one or more elementary or secondary schools in the State, the Commissioner would be authorized to arrange for the provision on an equitable basis of such library resources, textbooks, or other instructional materials for use and shall pay the cost thereof for any fiscal year ending prior to July 1, 1970, out of that State's allotment. (Sec. 204)

Suspension of State Participation -- Judicial Review. Each State would have a right to a hearing before the Commissioner before he may disapprove its State plan. After approval, the Commissioner would have authority to suspend the participation of a State where the State plan has been so changed that it no longer complies with the requirements of the title or where, in the administration of the plan, there is a failure to comply with any of its provisions. (Sec. 206)

The Commissioner's action with respect to the approval of State plans and with respect to his action in suspending the participation of a State in the program would be subject to judicial review. (Sec. 207)

Title III -- Supplementary Educational Centers

Purpose. This title would establish a five-year program of grants to local educational agencies for supplementary educational centers to provide educational services, and to establish exemplary model school programs. It authorizes an appropriation of $100 million for the fiscal year ending June 30, 1966. For the fiscal year ending June 30, 1967, and the next succeeding three fiscal years, the appropriations will be such as the Congress may authorize. (Sec. 301)

Apportionment Among States. The funds for making grants under this title would be apportioned among the States, the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands as follows:

First, in each fiscal year of the program, the Commissioner would reserve up to 2 percent of the amount appropriated for that fiscal year and apportion that amount among the Commonwealth of Puerto Rico, Guam, American Samoa, the Virgin Islands, and the Trust Territory of the Pacific Islands, according to their respective needs for assistance under this title. The Commissioner would then apportion $200,000 to each State and apportion the remainder among the States as follows:

(1) Half of such remainder would be apportioned on the basis of the relative number of children aged 5 to 17 in the States.

(2) Half of such remainder would be apportioned on the basis of the relative total populations in the States.

The number of such children and the total population of a State and of all the States would be determined by the Commissioner on the basis of the most recent satisfactory data available to him.

The amount apportioned under this section to any State for the fiscal year ending June 30, 1966, would be available for payments to applicants with approved applications in that State during that year and the next fiscal year. (Sec. 302)

Uses of Funds. Grants made under this title may be used, in accordance with an application approved by the U.S. Commissioner, for:

(1) Planning for and taking other preliminary steps leading to the development of programs for the supplementary educational activities and services described below; and

(2) The establishment, maintenance, and operation of programs, including the lease or construction of necessary facilities and the acquisition of necessary equipment, designed to provide supplementary educational services and activities such as--

(A) counseling, remedial instruction, and health, recreation, and social work services designed to enable and encourage persons to enter, remain in, or reenter educational programs;

(B) comprehensive academic services and, where appropriate, vocational guidance and counseling, for continuing adult education;

(C) developing and conducting exemplary educational programs for the purpose of stimulating the adoption of improved or new educational programs in the schools of the State;

(D) specialized instruction and equipment for students interested in studying advanced scientific subjects, foreign languages, and other academic subjects which are not taught in the local schools

or which can be provided more effectively on a centralized basis, or for persons who are handicapped or of preschool age;

(E) making available modern educational equipment and specially qualified personnel, including artists and musicians, on a temporary basis to public and other nonprofit schools, organizations, and institutions;

(F) developing, producing, and transmitting radio and television programs for classroom and other educational use;

(G) providing special educational and related services for persons who are in or from rural areas or who are or have been otherwise isolated from normal educational opportunities, including, where appropriate, the provision of mobile education services and equipment, special home study courses, radio, television, and related forms of instruction, and visiting teachers' programs; and

(H) other specially designed educational programs which meet the purposes of this title. (Sec. 303)

Applications for Grants -- Conditions for Approval. A grant for a program under this title may be made to a local educational agency if there is satisfactory assurance that in the planning of that program there has been, and in the establishing and carrying out of that program there will be, participation of representatives of the cultural and educational resources of the area to be served, such as State educational agencies, institutions of higher education, nonprofit private schools, libraries, museums, and other cultural and educational resources. In order to receive a grant under this title, a local educational agency must submit an application to the Commissioner which shall--

(1) provide that the activities and services for which assistance under this title is sought will be administered by or under the supervision of the applicant;

(2) set forth a program for carrying out the purposes of Section 303 and provide for the proper and efficient operation of such program;

(3) set forth policies and procedures to assure that Federal funds will be so used as to supplement and, to the extent practicable, increase the level of

funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes of Section 303, and in no case supplant such funds;

(4) in the case of construction of facilities, provide satisfactory assurance (A) that reasonable provision has been made, consistent with the uses to be made of the facilities, for areas in such facilities which are adaptable for artistic and cultural activities, (B) that upon completion of construction title to the facilities will be in a State or local educational agency, and (C) that the Davis-Bacon wage rate requirements will be complied with on all construction projects;

(5) set forth fiscal control and fund accounting procedures to assure proper disbursement of Federal funds, and

(6) provide for making certain reports and keeping certain records.

This section also provides that an application for a grant under this title may be approved by the Commissioner only if--

(1) the application meets the requirements set forth above;

(2) the program set forth in the application meets criteria established by the Commissioner for the purpose of achieving an equitable distribution of assistance under this title within each State, which criteria shall be developed by him on the basis of a consideration of (A) the size and population of the State, (B) the geographic distribution of the population within the State, (C) the relative need of persons in different geographic areas and in different population groups within the State for the kinds of services and activities described above (Uses of Funds), and their financial ability to provide those services and activities, and (D) the relative ability of particular local educational agencies within the State to provide those services and activities;

(3) in the case of an application for assistance for a program for carrying out the purposes described above (Uses of Funds) the Commissioner determines (A) that the program will utilize the best available

talents and resources and will substantially increase the educational opportunities in the area to be served by the applicant, and (B) that, to the extent consistent with the number of children enrolled in nonprofit private schools in the area to be served whose educational needs are of the type which the supplementary educational activities and services provided under the program are to meet, provision has been made for participation of such children; and

(4) the application has been submitted for review and recommendations to the State educational agency. (Sec. 304)

Advisory Committee. This title would establish in the Office of Education an Advisory Committee on Supplementary Educational Centers and Services consisting of the Commissioner of Education, who shall be chairman, and eight members to be appointed by the Commissioner with the approval of the Secretary. The functions of the Advisory Committee would be to advise the Commissioner (1) on the action to be taken with regard to each application for a grant under this title; and (2) in the preparation of general regulations and with respect to policy matters arising in the administration of this title. The usual provisions relating to compensation and travel expenses for members of advisory committees are included. (Sec. 306)

Recovery of Payments. This section permits the United States to recover, on a pro rata basis, Federal funds used to finance the construction of a facility under this act when certain changes in the ownership or use of such facility occur within twenty years of the completion of its construction. (Sec. 307)

Prevailing Wage Rates Required. Workers employed on construction projects assisted under this act must be paid wages at rates not less than those prevailing as determined by the Secretary of Labor in accordance with the Davis-Bacon Act. (Sec. 308)

Title IV -- Network of Regional Educational Facilities and Other Research and Training

Regional Facilities for Research and Related Purposes. Title IV of the bill would authorize the appropriation over a five-year period, beginning with the fiscal year ending June 30, 1966, of $100 million to be used by the Commissioner of Education for the purpose of constructing and operating a network of regional centers for research and related purposes in the field of education. The U.S. Commissioner would be authorized to:

(1) construct such facilities,

(2) make grants to universities, colleges, or other appropriate public or nonprofit private agencies or institutions for the cost of constructing such facilities,

(3) make arrangements by contract or otherwise for the operation of such facilities and other facilities "of this nature," and

(4) where the Government owns the facility, to transfer its title to a college, university, or other nonprofit private agency or institution upon such conditions as he deems appropriate to carry out the purposes of this section and protect the interest of the United States.

The activities of the proposed regional centers would include research, research training, surveys, or demonstrations in the field of education, or the dissemination of information derived therefrom, or all of such activities, including (but without limitation) experimental schools. The bill states that such centers shall not operate "in the field of sectarian instruction" or disseminate information derived from such instruction. (Sec. 4)

Prevailing Wage Rates. Payment to workers on construction projects of prevailing wage rates determined by the Secretary of Labor under the Davis-Bacon Act would be required.

Grants for Cooperative Research and Training. Under existing law (20 USCA 331) the U.S. Commissioner is authorized to enter into contracts with colleges, universities, and State educational agencies under which they conduct research, surveys, and demonstrations in the field of education. The pending bill would expand this authority by:

(1) authorizing grants as well as contracts and arrangements for research,

(2) authorizing grants, contracts, and arrangements for the dissemination of information derived from research, including information derived from programs developed under the Elementary and Secondary Education Act of 1965,

(3) providing that the recipient of such grants, contracts, and arrangements may be public or other nonprofit private agencies, institutions,

and organizations and individuals as well as universities and colleges,

(4) authorizing grants to public and other nonprofit universities and colleges and other public or nonprofit agencies to assist them in providing training in research in the field of education, including research traineeships, internships, and fellowships, and

(5) authorizing the use of such grants for stipends and allowances (including traveling and subsistence expenses) for fellows and others undergoing training and their dependents. (Sec. 401)

Grants for Sectarian Purposes Prohibited. The bill states that grants for training in research shall not be made for training in sectarian instruction or, for work to be done in an institution, or a department or branch of an institution, whose program is specifically for the education of students to prepare them to become ministers of religion or to enter upon some other religious vocation or to prepare them to teach theological subjects. (Sec. 401)

Title V -- Grants to State Departments of Education

Proposed Appropriations. This title would establish a five-year program of grants to be made by the Commissioner of Education for the purpose of assisting States in "strengthening" their State educational agencies and to aid them to identify and meet their educational needs. For the fiscal year ending June 30, 1966, an appropriation of $25 million would be authorized. For the fiscal year ending June 30, 1967, and next succeeding three fiscal years, the appropriations will be such as the Congress may authorize. (Sec. 501)

Apportionment Among States. Section 502 describes the manner in which 85 percent of the funds which are available for making grants under this title will be apportioned among the States, the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands. Note that only for the purpose of describing the manner in which such 85 percent will be apportioned are the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands not included in the term "State."

First, in each fiscal year of the program, the Commissioner shall reserve up to 2 percent of 85 percent of the amount appropriated for that fiscal year and shall apportion such reserved amount among the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands, according to their respective needs for assistance under this title. The Commissioner shall then apportion $100,000 to each State and shall apportion the remainder of such 85 percent among the States on the basis of the relative number of public school pupils in the States.

Use of Grants. From the funds apportioned to a State under this title the Commissioner may make a grant to a State educational agency, which has an approved application, of an amount equal to the Federal share of the expenditures made by such State agency for activities designed to promote the purposes of this title. The bill sets forth various examples of activities for which such grants may be used. These activities include: educational planning on a statewide basis; improved collecting, processing, analyzing of educational data; dissemination of information relating to the needs of education in the State and the financing thereof; programs for conducting or cooperating in educational research and demonstration programs; programs to improve the quality of teacher preparation; developing the competency of individuals who serve State or local educational agencies; and programs to provide leadership, administrative, or specialist services throughout the State.

The Federal Share. The method by which the Federal share of a State's expenditures for the activities and programs under this title would be determined is explained in the House Report on the bill as follows:

> ...For the fiscal years ending prior to July 1, 1967, the Federal share for any State shall be 100 percent. Thereafter the Federal share for any State shall be 100 percent less the State percentage, except that (1) the Federal share shall in no case be more than 66 percent or less than 50 percent, and (2) the Federal share for the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands shall be 66 percent. The "State percentage" for any State shall be that percentage which bears the same ratio to 50 percent as the per capita income of that State bears to the per capita income of all the States (excluding the Commonwealth of Puerto Rico, Guam, American Samoa, and the Virgin Islands).
>
> Provision is made in this subsection for the periods in which the Commissioner shall promulgate the Federal share and the data which he shall use in computing such Federal share. (Sec. 503)

Applications -- Conditions for Approval. Before approving an application for a grant under this title the U.S. Commissioner would be required to determine that the application:

(1) proposes programs and activities that meet the requirements of Section 503(a) and will serve to strengthen the leadership resources of the applicant and its ability to effectively meet the educational needs of the State;

(2) satisfactorily provides that Federal funds will be so used as to supplement and, to the extent practicable, increase the level of funds that would, in the absence of such Federal funds, be made available by the applicant for the purposes of Section 503(a);

(3) sets forth fiscal control and fund accounting procedures to assure proper disbursement of Federal funds; and

(4) provides for making certain reports and for keeping certain records. (Sec. 504)

Special Project Grants. The Commissioner would be authorized to use the remaining 15 percent of the sums appropriated to make grants to State educational agencies for experimental projects for developing State leadership and for the establishment of special services which will help solve problems common to State educational agencies.

Federal-State Interchange of Personnel. This section authorizes the Commissioner of Education to arrange with the States for the interchange of personnel between the Office of Education and the States for work which the Commissioner determines will aid the Office in more effectively discharging its responsibilities. An assigment could be made for a period up to two years.

Local educational agencies may not participate in this program.

Subsection (c) contains detailed provisions with respect to (1) the compensation of personnel assigned to the Office or from the Office, (2) their status under the Civil Service Retirement Act, Federal Employees Health Benefits Act of 1959, the Federal Employees' Group Life Insurance Act of 1954, and the Federal Employees' Compensation Act, and (3) related personnel problems. (Sec. 507)

Rejection of Applications -- Suspension of Payments. The bill requires that an opportunity for a hearing to be given a State before the Commissioner can disapprove an application.

The Commissioner would be authorized to declare a State ineligible for further participation in a program under this title if, after reasonable notice and hearing, he finds that (1) the application no longer complies with the requirements of this title, or (2) in the administration of a program under an approved application, there is a failure to comply. (Sec. 508)

Judicial Review. Judicial review of the Commissioner's final action with respect to the initial approval of a State's application or with his final action in suspending the participation of a State in a program is provided in Section 509.

Title VI -- General Provisions

Authority for Certain Federal Controls Withheld. This title includes a statement that nothing contained in the proposed act may be construed to authorize any department, agency, officer, or employee of the United States to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any educational institution or school system, or over the selection of library resources, textbooks, or other printed or published instructional materials by any educational institution or school system. (Sec. 604)

Payments for Religious Worship or Instruction Not Authorized. This title provides, also, that nothing in the act may be construed to authorize the making of any payment for religious worship or instruction. (Sec. 605)

ESTIMATED DISTRIBUTION OF FUNDS IN THE FISCAL YEAR 1966 UNDER PROGRAMS PROPOSED IN THE ELEMENTARY AND SECONDARY EDUCATION BILL

Estimated distribution of $1,060,082,973 [1] under title I of the Elementary and Secondary Education Act of 1965

	Estimated amounts [2]
United States and outlying areas	$1,060,082,973
50 States and the District of Columbia	1,038,881,314
Alabama	31,738,000
Alaska	1,430,938
Arizona	9,757,481
Arkansas	21,095,002
California	73,145,300
Colorado	8,454,110
Connecticut	7,175,172
Delaware	1,966,851
Florida	27,896,230
Georgia	34,517,871
Hawaii	2,127,585
Idaho	2,311,382
Illinois	43,360,809
Indiana	18,772,978
Iowa	17,325,264
Kansas	9,752,736
Kentucky	28,215,150
Louisiana	37,904,234
Maine	3,907,197
Maryland	14,356,074
Massachusetts	13,988,754
Michigan	32,729,320
Minnesota	20,876,677
Mississippi	28,028,704
Missouri	26,866,755
Montana	$3,750,273
Nebraska	6,793,169
Nevada	658,184
New Hampshire	1,609,796
New Jersey	20,196,092
New Mexico	8,931,560
New York	91,893,253
North Carolina	48,556,000
North Dakota	5,069,610
Ohio	36,708,699
Oklahoma	15,596,196
Oregon	7,893,807
Pennsylvania	49,519,506
Rhode Island	3,746,500
South Carolina	25,519,125
South Dakota	6,249,152
Tennessee	31,092,525
Texas	74,580,048
Utah	2,627,783
Vermont	1,556,327
Virginia	29,433,775
Washington	11,275,168
West Virginia	15,741,450
Wisconsin	16,078,428
Wyoming	1,470,960
District of Columbia	4,633,354
American Samoa, Guam, Puerto Rico, Virgin Islands, Trust Territory of the Pacific.	21,201,659

[1] 2 percent ($21,201,659) reserved for distribution to the outlying areas, which are American Samoa, Guam, Puerto Rico, Trust Territories of the Pacific, and the Virgin Islands.

[2] Estimated distribution based on the estimated aged 5 to 17 population in families with annual incomes of less than $2,000 (1959) including estimated distribution based on the estimated aged 5 to 17 population in families receiving $2,000 or more per year from aid for dependent children payments (1959) and 50 percent of the estimated State current expenditure per pupil in average daily attendance (1963–64).

Source: House Report 143, 89th Congress.

Note: The above tables do not include funds for the proposed regional educational facilities.

Estimated distribution of $100,000,000 [1] school library resources, textbooks, and instructional materials under title II, Elementary and Secondary Education Act of 1965, fiscal year 1966

	Estimated amounts
United States and outlying areas	$100,000,000
50 States and the District of Columbia	98,000,000
Alabama	1,734,277
Alaska	118,854
Arizona	815,164
Arkansas	937,854
California	9,308,483
Colorado	1,065,929
Connecticut	1,392,995
Delaware	256,903
Florida	2,604,055
Georgia	2,174,706
Hawaii	391,124
Idaho	370,581
Illinois	5,361,699
Indiana	2,528,237
Iowa	1,483,765
Kansas	1,146,723
Kentucky	1,549,486
Louisiana	1,922,905
Maine	525,829
Maryland	1,809,594
Massachusetts	2,622,125
Michigan	4,671,827
Minnesota	1,988,186
Mississippi	1,218,307
Missouri	2,309,246
Montana	$382,828
Nebraska	775,144
Nevada	211,763
New Hampshire	336,232
New Jersey	3,233,812
New Mexico	590,702
New York	8,293,725
North Carolina	2,435,404
North Dakota	347,300
Ohio	5,406,689
Oklahoma	1,266,877
Oregon	975,757
Pennsylvania	5,908,219
Rhode Island	427,974
South Carolina	1,320,035
South Dakota	386,888
Tennessee	1,826,346
Texas	5,345,745
Utah	587,662
Vermont	208,027
Virginia	2,095,347
Washington	1,591,758
West Virginia	924,800
Wisconsin	2,278,827
Wyoming	187,468
District of Columbia	345,817
American Samoa, Guam, Puerto Rico, Virgin Islands, Trust Territory of the Pacific	2,000,000

[1] 2 percent ($2,000,000) reserved for distribution to the outlying areas.

Estimated distribution of $100,000,000 [1] for supplemental education services under title III, Elementary and Secondary Education Act of 1965, fiscal year 1966

	Total estimated amount
United States and outlying areas	$100,000,000
50 States and the District of Columbia	98,000,000
Alabama	1,843,542
Alaska	318,293
Arizona	935,099
Arkansas	1,098,100
California	8,239,821
Colorado	1,107,310
Connecticut	1,432,727
Delaware	425,115
Florida	2,702,679
Georgia	2,229,496
Hawaii	530,441
Idaho	536,393
Illinois	4,929,120
Indiana	2,451,748
Iowa	1,487,761
Kansas	1,230,857
Kentucky	1,687,506
Louisiana	1,878,224
Maine	659,025
Maryland	1,779,430
Massachusetts	2,581,226
Michigan	4,051,798
Minnesota	1,863,225
Mississippi	1,338,363
Missouri	2,188,807
Montana	537,823
Nebraska	$879,119
Nevada	377,415
New Hampshire	495,293
New Jersey	3,150,198
New Mexico	698,347
New York	8,010,486
North Carolina	2,507,564
North Dakota	512,900
Ohio	4,912,452
Oklahoma	1,322,315
Oregon	1,067,258
Pennsylvania	5,392,267
Rhode Island	600,568
South Carolina	1,449,458
South Dakota	541,281
Tennessee	1,965,556
Texas	5,083,486
Utah	690,284
Vermont	390,283
Virginia	2,215,361
Washington	1,588,747
West Virginia	1,070,069
Wisconsin	2,118,449
Wyoming	363,035
District of Columbia	533,880
American Samoa, Guam, Puerto Rico, Virgin Islands, Trust Territory of the Pacific.	2,000,000

[1] 2 percent ($2,000,000) reserved for distribution to the outlying areas. Basic allotment of $200,000 for the 50 States and the District of Columbia, with the balance distributed ½ ($43,900,000) on the basis of the estimated 5-to-17 population as of July 1, 1963, and ½ ($43,900,000) on the basis of the estimated total resident population as of July 1, 1963.

Estimated distribution of $25,000,000[1] for strengthening State departments of education under title V, Elementary and Secondary Act of 1965, fiscal year 1966

	Estimated amounts
United States and outlying areas	$21,250,000
50 States and the District of Columbia	20,825,000
Alabama	411,619
Alaska	121,337
Arizona	238,848
Arkansas	270,243
California	1,672,034
Colorado	280,701
Connecticut	312,652
Delaware	139,737
Florida	549,680
Georgia	495,621
Hawaii	159,850
Idaho	165,497
Illinois	875,820
Indiana	517,718
Iowa	335,566
Kansas	292,294
Kentucky	351,893
Louisiana	398,520
Maine	182,826
Maryland	379,359
Massachusetts	477,050
Michigan	828,465
Minnesota	399,197
Mississippi	319,780
Missouri	460,057
Montana	$162,626
Nebraska	220,497
Nevada	137,894
New Hampshire	147,601
New Jersey	576,593
New Mexico	198,805
New York	1,288,213
North Carolina	547,459
North Dakota	156,051
Ohio	946,737
Oklahoma	327,809
Oregon	267,391
Pennsylvania	939,966
Rhode Island	157,218
South Carolina	340,190
South Dakota	162,285
Tennessee	428,208
Texas	1,035,640
Utah	207,310
Vermont	131,119
Virginia	467,894
Washington	372,829
West Virginia	265,521
Wisconsin	415,673
Wyoming	133,422
District of Columbia	153,685
American Samoa, Guam, Puerto Rico, Virgin Islands	425,000

[1] 85 percent of $25,000,000 distributed; 2 percent ($425,000) of $21,250,000 reserved for distribution to the outlying areas. Basic allotment of $100,000 for the 50 States and the District of Columbia; balance distributed on the basis of public elementary and secondary school enrollment, fall 1964.

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COPY

July 20, 1964

Jule M. Hannaford, Esquire
Dorsey, Owen, Marquart, Windhorst & West
2400 First National Bank Building
Minneapolis, Minnesota 55402

Dear Mr. Hannaford:

Thank you for your recent letter commenting further on the problem posed by the pending IRS regulations relating to the tax status of professional corporations and associations.

It is my belief that it would be wise to await the actual publication of these regulations before reaching any firm decision as to whether or not any corrective legislation is necessary. In any event, only a few weeks of the 88th Congress remain and no action in the legislative area will be possible until the 89th Congress convenes in January, 1965.

If the regulations are published by that time and if they work a hardship on legitimate professional corporations and associations, I certainly will give every consideration to introducing appropriation legislation.

Thank you for your memorandum on H.R. 10 and related materials.

Sincerely yours,

Hubert H. Humphrey

Asst. / Humphrey

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July 10, 1964

Honorable Hubert H. Humphrey
Senate Office Building
Washington, D. C.

Dear Senator Humphrey:

Thank you very much for your letter of June 23 enclosing a copy of a letter to you from Mr. Maurice Lewis of the Internal Revenue Service commenting on my objections to the proposed regulations dealing with professional associations and professional corporations.

There have been introduced in Congress several bills which would amend Section 7701 of the Internal Revenue Code to make it clear that corporations validly organized under state law are eligible to be classified as corporations for income tax purposes. These bills are, of course, designed to overrule the proposed regulations if they should ever be issued in the form in which they were proposed. The bills which are all similar in wording and intent are as follows:

H.R. 9217	Mr. Charles L. Weltner, D. Georgia
H.R. 9690	Mr. John W. Davis, D. Georgia
H.R. 9874	Mr. Robert McClory, R. Illinois
H.R. 10070	Mr. Byron G. Rogers, D. Colorado
H.R. 10418	Mr. Seymour Halpern, R. New York
H.R. 11079	Mr. Donald G. Brotzman, R. Colorado
H.R. 11084	Mr. John H. Dent, D. Pennsylvania
H.R. 11548	Mr. Ancher Nelsen, R. Minnesota
S. 2403	Senator Herman E. Talmadge, D. Georgia

I hope you will find it possible to support legislation of this type. Representative John Blatnik has advised us that if the regulations relating to professional associations and professional corporations when finalized deny to professional people organized under state corporation law the status of corporations, he will support legislation of this type.

I have been vitally interested in the whole question of the tax status of professional groups for a long number of years and enclose herewith reprints of two articles on this subject that I have written. I am also enclosing a mimeographed document entitled "Report on H.R. 10," which is a draft prepared by me of a report issued last summer by the American Bar Association's Committee on Pension and Profit Sharing Plans, of which I am a Vice Chairman. The report when finally issued was considerably revised from the enclosure. At least the enclosure gives you some of my ideas. I am also enclosing a copy of a letter written by Colin Stam in 1960 to the President when he was Senator from Texas commenting on the regulations issued in that year.

If there is any further background information that I could supply you in connection with this matter, I shall be more than happy to comply.

Very truly yours,

Jule M. Hannaford

JMH:GT
Enclosures

C O P Y

CONGRESS OF THE UNITED STATES
Joint Committee on Internal Revenue Taxation
House Office Building
WASHINGTON

MAY 13 1960

Honorable Lyndon B. Johnson
United States Senate
Washington, D. C.

Dear Senator Johnson:

As you requested in your letter of April 11, 1960, I have reviewed the proposed Treasury regulations regarding associations and partnerships. You inquired whether the proposed regulations conform with the Internal Revenue Code and the likelihood of their being adopted.

While the Internal Revenue Code does not define the term "associations", a large body of court-made law has developed as to what constitutes an association which the Internal Revenue Code treats for tax purposes in the same manner as a corporation. As pointed out in your letter, one of the advantages of being treated as an association is the possibility of establishing a pension plan for the owners. This is particularly advantageous where the State law prohibits corporations from engaging in certain businesses, such as the practice of medicine and law.

Prior to 1954 most organizations tried to avoid association treatment in order to escape the corporate income tax. In that year, however, the 9th Circuit Court of Appeals decided U.S. v. Kintner, 216 F. 2d 418, which concerned a group of doctors who formed an association for the practice of medicine and to provide a pension plan for the doctors. After the court determined that the organization in question was an association within the meaning of the Internal Revenue Code, the advantages of a pension plan in many cases began to outweigh the disadvantages of the corporate income tax with the result that similar associations were formed for the purpose of establishing pension plans.

The Internal Revenue Service has never followed the Kintner decision and has contested many similar organizations since 1954. Most recently the case of Galt, et ux v. U. S. was decided in the Northern District of Texas in July 1959. It also involved a group of doctors and their association very closely resembled the Kintner association. The taxpayer won in the District Court and the Government's appeal was dismissed by the 5th Circuit in November 1959.

CONGRESS OF THE UNITED STATES
Joint Committee on Internal Revenue Taxation
WASHINGTON

Under the proposed regulations the organization set up by the Kintner group would not qualify as an association, and the status of the Galt organization would be questionable. In addition, many organizations which have qualified as an association for years would be unable to meet the new tests. Conversely, certain real estate trusts and theatrical organizations which have never been classified as associations probably would be so treated under the new regulation.

The tentative regulations of the Treasury to which you refer clearly overrule the Kintner decision and would deny organizations of that type the right to set up pension trusts. I have strong doubt as to whether such regulations are justified under the existing law as construed by the courts.

Of course, under the plan the Treasury suggests as a substitute for H. R. 10, now pending before the Finance Committee, such groups might be permitted to set up pension trusts even though the Treasury does not regard them as associations; however, the relief would be less than that accorded such groups if they are held to be associations.

Sincerely yours,

/s/ Colin F. Stam

Colin F. Stam
Chief of Staff

The Minnesota Professional Corporation Act

- Background
- Advantages
- Provisions
- Problems

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Minneapolis, Minnesota

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On May 8, 1961, the Governor signed Chapter 1 of the Special Session of the 1961 Minnesota Legislature known as the "Professional Corporation Act." **The Act permits three or more physicians licensed to practice in this state to incorporate and to obtain from the Minnesota State Board of Medical Examiners a certificate of registration authorizing the corporation to provide to the public medical services and services ancillary thereto.** The Act was sponsored before the Legislature by the Minnesota State Medical Association in an attempt to obtain for Minnesota physicians many income tax benefits that are available to businessmen who are employed by corporations.

This article will outline the background leading up to the sponsoring of the Act by the Minnesota State Medical Association, the tax advantages available to those physicians who take advantage of the Act, the provisions of the Act, and some of the problems that are likely to arise under the Act.

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Background

As the group practice of medicine has become more and more common in the United States over the past 30 to 40 years, more and more groups have become dissatisfied with the traditional form of group organization—the partnership. Probably the principal reason for such dissatisfaction was the problem of acclimating partners to think in terms of centralized management and continuity of life which are essential if a group is to become a permanent fixture in the community it serves. It is perfectly possible to draft a partnership agreement which will have both such characteristics, but unless the partners become accustomed to think in terms of the welfare of the group as a whole, a partnership agreement, no matter how carefully drafted, is not likely to produce a permanent group organization. In an attempt to find a legal form of organization under which members might be more inclined to think of the welfare of the group as a whole, several groups in the 1930's began to organize or reorganize as unincorporated associations or as business trusts.

The attitude of the Internal Revenue Service toward such organizations in those days was quite different from what it is today. The Internal Revenue Code then provided, as it does today, that the federal corporate income tax is imposed not only on corporations but also on organizations which have corporate characteristics such as "unincorporated associations." Under this provision the Internal Revenue Service started attacking medical groups organized as unincoporated associations and business trusts on the theory that they should be taxed as corporations. In 1936 the service won its first case which involved Dr. Pelton of Elgin, Illinois, and in which the court held that the Pelton Clinic should be taxed as a corporation.

When federal income taxes were not reduced to any substantial extent following World War II, medical groups, along with other professional men, began to look for means to reduce the burden of income taxes. One answer seemed to be in employee retirement plans first recognized for federal tax purposes in the Internal Revenue Code of 1942. However, groups organized as partnerships could not provide tax relief for their partners by adopting such a plan because the law and the regulations both provided that such a plan would not qualify for favored tax treatment if it covered partners. Moreover, the laws of most states did not permit groups to incorporate for the practice of medicine. The most hopeful route appeared to be reorganization as an unincorporated association, one of which in Dr. Pelton's case had just recently been held to be taxable as a corporation for federal income tax purposes. Several groups proceeded so to reorganize and to adopt employee retirement plans covering not only employees but also physicians who had formerly been partners.

At this point the Internal Revenue Service, fearing a substantial loss of tax revenue, took a new look at the problem and after some soul searching decided to reverse its position. Its new position was that unincorporated associations were not corporations but rather partnerships and, therefore, could not adopt qualified retirement plans covering associates who, in the Service's opinion, were no more than partners. This was the position the Service tried to establish in the now famous case involving Dr. Kintner of Missoula, Montana. The case, decided in 1954 by the Ninth Circuit Court of Appeals, was a complete defeat for the Service. Nevertheless, shortly thereafter the Service issued a bulletin which stated that the Kintner case "will not be accepted by the Internal Revenue Service as a precedent in the disposition of other cases involving similar fact situations." There the matter seemed to rest until the Service on October 10, 1957, tantalizingly issued a new ruling "modifying" its prior position and concluding with the following ray of hope: "Basic criteria to be used in testing the existence of an association taxable as a corporation will be stated in a Revenue Ruling to be published at a later date." For more than two years the medical profession waited for the promised ruling but nothing was forthcoming.

Then late in December, 1959, proposed regulations were issued. To some these proposed regulations seemed helpful. But many students of the subject were disturbed by a provision in the proposed regulations to the effect that state law would be followed in determining whether an association meets the tests of an organization which is eligible to be taxed as a corporation. It was feared that associations might be considered partnerships under state law and that if they were, associations subject to the laws of states which had adopted the Uniform Partnership Act clearly could not meet the tests. Nearly 2/3rds of the states have adopted the Uniform Partnership Act and Minnesota is one which has done so. These fears were pointed out to government officials at a public hearing in Washington in February 1960. There followed another long wait for final action by the Internal Revenue Service.

The final regulations were issued on November 15, 1960, just a little over six years after the Kintner case was decided. The final regulations justified all the fears that had been expressed by many students of the problem for they specifically stated that an association subject to the Uniform Partnership Act could not meet most of the tests that must be met if an organization is to be taxed as a corporation. However, they clearly pointed the way that a solution to the problem could be found. They provided that state law is to be examined to determine whether the tests for taxability as a corporation have been met. State law can be changed by the state legislature. Therefore, the Minnesota Legislature was asked to pass an act which would permit the incorporation of medical groups and which would provide that any medical group so incorporated would meet the tests laid down in the final regulations for taxability as a corporation.

The Minnesota Legislature passed the Act as Chapter 1 of the Special Session. Minnesota is one of 14 states that so far in 1961 have passed laws similar to the Minnesota Professional Corporation Act designed to give tax relief to physicians and other professional groups. Connecticut had passed a similar act in 1951.

The Internal Revenue Service has so far issued one ruling involving a medical group organized under one of these Acts—the Connecticut Act. The ruling involves the Colony Medical Group, Incorporated, of Meriden, Connecticut, and holds that it is taxable as a corporation.

Advantages

The Professional Corporation Act provides a vehicle by which medical groups can organize in order to provide centralized management and to perpetuate the group. These advantages should not be minimized. However, as most of the publicity and discussion with respect to the Act has been directed toward the tax advantages which it affords, a short discussion of these seems appropriate.

Most of the publicity with respect to tax advantages has dealt with so-called qualified retirement plans. These are, of course, important but they are not the only advantages. Among the other tax advantages, all of which are available to employees of corporations, are the following:

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1. Insurance programs providing group life insurance, group accident and disability insurance, or group health insurance can be established for all employees of a professional corporation, including those who were partners in a predecessor partnership. Premiums paid for such insurance will be deductible when computing the professional corporation's federal income taxes and will not be taxable income to the employees of the professional corporation.

2. A program can be established providing for payments to employees of the professional corporation who become sick or disabled. If such a plan is adopted, the payments to the employees will be deductible in computing the professional corporation's federal income taxes and up to $100 per week may be excluded by each employee in computing his income subject to federal income taxes.

3. On the death of an employee up to $5,000 may be paid to the widow, estate or designated heir of the employee, and such sum will be deductible in computing the corporation's federal income tax but will not be taxable income to the recipient.

4. Upon the retirement of an employee his interest in a professional corporation as a stockholder may be sold and the gain, if any, received will be taxable for federal income tax purposes at capital gains rates rather than as ordinary income. Of course, if the stock is sold to the professional corporation, such corporation will not be able to deduct, in computing its federal income tax, the amount paid for the stock purchased.

5. If a professional corporation keeps its annual taxable income at less than $25,000, it can accumulate up to $100,000 in the professional corporation and pay federal income taxes on such accumulations at a rate of 30%, which will in many cases be lower than the rate the stockholders would have to pay in federal income taxes if these accumulations were distributed to them either in the form of salary or dividends.

6. If a professional corporation has no more than 10 shareholders, it may avail itself of all the foregoing tax advantages, except the one set forth in paragraph 5, and elect to have all its remaining income distributed to and taxed to its shareholders in exactly the same manner as a partnership does.

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With respect to deferred retirement plans, a professional corporation can set up what is technically referred to as a profit sharing plan, pay into such plan annually up to 15% of the compensation of all employees covered by the plan, have such annual contributions deductible in computing the corporation's federal income taxes, and have the amounts paid into the plan for the benefit of employees not taxable to them until distributed to them. Of course, if such a plan is adopted, it will have to cover not only the professional personnel who were partners under the predecessor partnership but also a substantial number of the non-professional personnel. The Internal Revenue Service has rules and regulations with respect to employees who can be excluded from the plan and must specifically approve the exclusion from the plan of any group of employees. In the past the Service has approved the exclusion of males who have not reached 30 years of age and females who have not reached 35 years of age; the exclusion of part time employees; and the exclusion of employees who are paid on an hourly rate basis rather than on a monthly salary basis. In some situations medical groups may be able to adopt similar exclusions. Nevertheless, these rules will require a considerable number of non-professional employees to be covered by any plan adopted by a medical group. Each group will have to determine for itself whether the cost of including these non-professional employees will be off-set by the tax advantages that will accrue to the physicians who were formerly partners.

An example of how such a computation would be made might be helpful.

Assume that there is a partnership consisting of 5 partners, each of whose annual taxable income is $25,000; that each partner takes the standard deductions of 10% in computing his federal income tax; and that each has a wife and two children. Without a qualified retirement plan, each partner's federal tax situation would be as follows (Minnesota income taxes will not be figured in the calculation):

Gross income	$25,000
Less 10% for standard deductions	2,500
	22,500
Less 4 exemptions at $600 apiece	2,400
Taxable income	20,100
Federal income tax	5,300
Spendable income	$14,800

Now assume that this group adopts a profit sharing plan to which it contributes 10% of the annual compensation of each covered employee; that it will be necessary to cover under the plan 10 employees who are not physicians, whose annual salaries aggregate $40,000, and for whose benefit an annual contribution of $4,000 will be made to the plan; and that the cash income of each of the 5 former partners will be reduced by 1/5 of the $4,000 contributed to the plan on behalf of the 10 non-professional employees and by the amount contributed to the plan for his benefit. If the plan were put into effect and if the same assumptions as to deductions and exemptions are used, each partner's federal tax situation would be as follows:

Gross income	$25,000
Less 1/5 of contribution of $4,000 to plan for non-professional employees	800
	24,200
Less 10% contributed to plan for his benefit	2,420
Gross income to be reported for income tax purposes	21,780
Less 10% for standard deductions	2,178
	19,602
Less 4 exemptions at $600 apiece	2,400
Taxable income	17,202
Federal income tax	4,432
Spendable income	$12,770

While each partner's spendable income has as a result of the plan been reduced $2,030, there has been placed in the plan for his account $2,400. Moreover, up to 50% of the amount contributed to the plan for each covered employee can be used to buy life insurance on his life payable to his estate or his heirs. If this is done, each partner can cut back his personal life insurance program by a comparable amount. If each partner now expends $1,200 per year on life insurance, his true spendable income without the plan is not $14,800 as shown above, but rather $13,600. If the plan is put into effect, if it expends the maximum permissible on life insurance on each covered employee, and if each former partner cuts back his personal insurance program by a comparable amount, his true spendable income with the plan is not $12,770 as shown above, but rather $13,970 or $370 more than without the plan. It must also be remembered that the earnings on the $2,400 paid into the plan for each former partner remain in the plan until he retires or dies and are not subject to income taxes.

One point should be kept in mind. Under a profit sharing plan such as outlined above, the corporation will have to pay into the plan each year the same percentage of each covered employee's annual compensation. It will not be possible to contribute in one year 1% of annual compensation for one employee, 5% for another, and 10% for all the rest. While it is possible to vary from year to year the percentage of annual compensation paid into the plan, the percentage paid into the plan in any one year must be the same for all covered employees.

Provisions

The Act provides that a professional corporation may be organized either as a stock company under the Business Corporation Act or as a membership company without stock under the Non-Profit Corporation Act. If a group chooses to incorporate under the Non-Profit Corporation Act, the corporation does not have to be one whose aim is not to make a profit. Its aim may be to make profit for its members.

A professional corporation may be formed by a group all of whose members practice the same specialty or by a group each of whose members practice a different specialty. The Act imposes no restrictions on the types of medical services a professional corporation may furnish.

Groups of three or more physicians will find no difficulties in incorporating or in operating under either the Business Corporation Act or the Non-Profit Corporation Act. However, the situation may not be the same for a group of two physicians or for a solo practitioner.

While the Act requires that a professional corporation must have three incorporators who are physicians, the only connection that incorporators need have with the professional corporation is that they sign the Articles of Incorporation. They need not be shareholders, directors, officers or employees of the professional corporation and the only connection they need ever have with the corporation is to sign its Articles of Incorporation. Therefore, it would seem that a two-member group or a solo practitioner could incorporate by getting one or two friends who are physicians to join in signing Articles of Incorporation.

The Business Corporation Act and the Non-Profit Corporation Act under which the mechanics of incorporation must be accomplished each provide that a corporation must have at least 3 directors and may have as many more as may be desired. The Business Corporation Act requires that a corporation must have a president, a secretary, and a treasurer and may have such other officers as it wishes. **It also provides that any two of the required offices may be held by one person. The Non-Profit Corporation Act provides in effect that the Articles of Incorporation or By-laws may provide that the functions of president, secretary, and treasurer, which are the required officers, may be exercised by one person.** Since the Professional Corporation Act requires that all directors and officers of a professional corporation must be physicians, it follows that each professional corporation must find at least three physicians willing to serve as its directors and at least one or two physicians willing to serve as its officers, depending on whether it is incorporated under the Business Corporation Act or the Non-Profit Corporation Act. Again it would seem that a two-member group or a solo practitioner desiring to incorporate could meet these requirements by getting friends who are physicians to fill the required directorships and offices that are not held by the two physicians of a two-man group or by the solo practitioner.

It would also seem that there are other ways the solo practitioner might meet this requirement. One would be for three of them to organize three separate corporations, each of which would carry on the medical practice of one of the physicians. All three physicians would then serve as directors and officers of all three corporations but each would own stock in only one corporation. There would appear to be no prohibition against this type of arrangement because while the Act does prohibit a physician from being a shareholder or member in more than one professional corporation, it does not specifically prohibit a physician who is an officer or director of one professional corporation from being an officer or director in another professional corporation.

Another would be for three solo practitioners to form a single corporation into which all three solo practices would be placed. The three would be incorporators, directors and officers of the same corporation but separate financial records would be kept for each practice and each solo practitioner would receive a salary equal to what his solo practice produced. This type of arrangement would be similar to the not uncommon situation where a business corporation has two or more operating divisions and would not appear to be prohibited by the Act.

However, the Minnesota State Board of Medical Examiners has adopted forms which will, for the present at least, make it impossible for two-man groups and solo practitioners to incorporate. Question number 8 of the application form adopted by the Board asks:

> "Is any incorporator, director, officer, shareholder or member an incorporator, shareholder, member, director or officer of any other professional corporation?"

And question number 11 of the application form asks:

> "Is each and every incorporator, director, officer, shareholder and member practicing medicine and surgery as members of one joint group for the common benefit and financial interest of the group?"

It is perfectly clear that question 11 cannot be answered in the affirmative by a solo practitioner or a two-man group which has found friends to fill the directorships and offices not held by the solo practitioner or the members of the two-man group, that question number 8 cannot be answered in the negative if three solo practitioners form three separate corporations for each of which all three solo practitioners act as directors and officers, and that question number 11 cannot be answered in the affirmative if three solo practitioners place their three separate practices in one corporation and keep separate financial records for each practice.

The form does not state what the consequences of an affirmative answer to question 8 or a negative answer to question 11 will be and the Board has not issued any regulation or any statement to explain why these questions were inserted in the application form. However, representatives of the Board have stated unofficially that it is the Board's preliminary view that certificates of registration should be denied to two-man groups and solo practitioners who cannot answer such questions in the manner indicated. Such representatives have added that the Board will review its present position at future meetings to see whether or not it should be changed.

The Act provides that each shareholder or member of a professional corporation must be a physician. As a result, a group which incorporates must make provision for what is to happen when a shareholder or member dies because the estate or the heirs of a deceased physician cannot become shareholders or members in a professional corporation. The provision can be of any type that the group desires and can be the same as the one that the group presently has in its partnership or association agreement. If a group fails for any reason to make provision for getting rid of a shareholder's interest on his death, the Act provides that the professional corporation may purchase a deceased shareholder's stock at its book value at the end of the month immediately preceding the date of death.

Struggles with third parties who desire to control the practice of medicine have long required the devoted common effort of organized medicine. These provisions requiring all directors, officers and shareholders or members to be physicians were inserted in the Act to make sure that laymen would not be able to control or profit from the practice of medicine, a concept which is, of course, basic. So long as this concept is kept inviolate, there can be no conflict with the ethical principles of the American Medical Association. In December 1957 its House of Delegates adopted a resolution to the effect that physicians may ethically join together in any form of organization they desire so long as the ownership and management of the affairs of the organization remains in the hands of licensed physicians.

While the Act is clear that a professional corporation may have a branch office or branch offices, it provides that the location of any office may be changed only after the Board has been notified of the organization's intention so to do.

The Act contains safeguards designed to preserve the traditional relationship between physician and patient. For example, it provides that it does not alter any law applicable to the relationship between a physician and his patient, including liability arising out of the provision of medical care. Also, it provides that it does not alter the law with respect to privileged communications and records and that the State Board of Medical Examiners when auditing a professional corporation shall not have access to books, records or information relating to medical care rendered to a patient by an employee of a professional corporation. Finally, the Act provides that all employees of a professional corporation who render medical services must be licensed physicians.

The Act provides that before a professional corporation may begin furnishing medical services, it must obtain a certificate of registration and vests in the Minnesota State Board of Medical Examiners authority to issue such certificates. The procedure contemplated by the Board is that a group first incorporate and then file its application for a certificate, together with the application fee of $100. After a certificate has been issued, it must be renewed annually by payment of a fee of $25. The fees payable to the State of Minnesota for the privilege of incorporating will depend primarily upon the capitalization of the professional corporation but in no event will they be less than approximately $65. In addition to the fees payable to the Board and the State for the privilege of incorporating, a group incorporating will incur other expenses for a corporate seal, stock certificates, publication of notice of incorporation and a minute book, all of which should not exceed $100, and legal fees, the amount of which cannot be predicted.

Problems

The Professional Corporation Act is not, of course, the answer for all physicians in the state. Groups which incorporate will have to face the same problems that they face as partnerships or associations, such as how do we admit a new member, who controls the group, and how do we pay off a deceased or retiring member. Such problems can, however, be handled in a corporation exactly as they are handled in a partnership or association, though the tax consequences may be different. But incorporation will bring some new consequences and some new problems that must be faced. A few of these will be discussed.

The most important problem to be faced after incorporation is whether or not the professional corporation will be eligible to be taxed as a corporation. It has been assumed by most attorneys that once a medical group incorporated it would, of course, be taxed as a corporation. This is because the Internal Revenue Code imposes an income tax on the net income of all corporations except those specifically exempted by the Code. However, recent developments have indicated that the Internal Revenue Service may not agree with this view and may be taking the position that not all professional corporations are eligible to be taxed as a corporation. On March 2, 1961, the Service published a ruling involving The Colony Medical Group, Incorporated, of Meriden, Connecticut which held that this medical group which had incorporated under the Connecticut Act was eligible to be taxed as a corporation. However, in the ruling the Service examined all aspects of the corporation to see whether or not the corporation met the tests laid down in the Kintner regulation for organizations eligible to be taxed as corporations. It is the writer's understanding that this ruling was published as a warning that corporations organized under professional corporation acts were not automatically eligible to be taxed as corporations but would have to meet the tests laid down in the Kintner regulations. Then on May 1, 1961, a new procedural regulation was issued in which it was in effect stated that rulings with respect to the tax status of professional corporations could not be issued at the district office level but could only be issued from Washington. These two releases emphasize the importance the Service is attaching to the whole matter. Despite this fact any established and substantial group desiring to incorporate under the Minnesota Act should be able to realize the desired tax consequences for the Act is so worded that Articles of Incorporation, By-laws and related documents can be drawn to meet the requirements of the Kintner regulations.

A group of three or less may, however, have more difficulty in establishing its eligibility to be taxed as a corporation. One of the four requirements of the Kintner regulations is that a group have centralized management. On October 5, 1961, Isidore Goodman, the Chief of the Pension Trust Branch of the Internal Revenue Service, made a speech in which he implied that there is no centralized management unless one or more, *but less than all,* of the members has authority to make management decisions. Since the management of a corporation is by law vested in its Board of Directors and since the Minnesota Act requires three directors, a group of three or less would have all members of the group serving on the Board of Directors and would have no physician employed who is not a director. If Mr. Goodman's statement reflects the views of the Service on this point, a group of three or less would not, therefore, be able to meet the requirements of centralized management. The first case involving the Minnesota act that is presented to the Internal Revenue Service for a ruling will undoubtedly establish the pattern for those that follow. It is hoped that this case will involve a group of substantially more than three and that the papers will be carefully drawn to meet the requirements of the Kintner regulations and the Colony Medical Group ruling so that the Internal Revenue Service will not be able to issue an unfavorable ruling. If the first case is a weak one and results in an unfavorable ruling, other groups whose cases are strong may find the work involved in obtaining a favorable ruling considerably increased.

One further problem should be mentioned. Since the Service issued its ruling with respect to the Colony Medical Group, no further rulings have been issued involving professional corpora-

tions. This may mean only that the Service is overworked and has not had time to get at the many requests pending before it. Or it may mean that the Service is intentionally dragging its feet and at the same time drafting suggested legislation which will deny to medical groups the benefits the Professional Corporation Act was designed to give.

Social Security and Withholding

If a group incorporates, the physicians who were partners or associates in the predecessor organization will become employees of the professional corporation. As such they will be covered by social security. They and the corporation will both have to pay social security taxes. The combined tax is 6% of the first $4,800 of salary paid or $288 per year. The rate is scheduled to rise to 7% on January 1, 1963, to 8% on January 1, 1966, and to 9% on January 1, 1969. In addition as employees they will be subject to withholding for both federal and state income taxes. There is no way that a professional corporation can escape having its employees covered under social security or under withholding.

Management

Physicians who have been practicing in groups which have no head and where unanimous consent is required for many decisions may be reluctant to form a corporation where management is vested in a board of directors and where there will be a president who is the chief executive officer. There are two things that may be done to minimize this problem. First, all physicians who were partners or associates in the predecessor organization may be named to the board of directors of the professional corporation and a By-law may be adopted requiring unanimous decision of the board for action on special or on all matters. However, in view of the recent statement of Mr. Goodman referred to above it is probably advisable to have one or more physicians who are not members of the board. Second, the presidency can be rotated upon a monthly, quarterly, annual or any other satisfactory basis.

Personal Holding Company

The federal income tax law imposes upon personal holding companies a penalty tax which amounts to from 75% to 85% of undistributed personal holding company income. A corporation becomes a personal holding company if more than 50% of the stock of the corporation is owned by not more than 5 individuals and if at least 80% of the income of the corporation is "personal holding company income." The part of the definition of personal holding company income that medical groups must be aware of is the part that defines it to include income received from personal service contracts if some person other than the corporation can designate the person who is to perform the personal services and if 25% or more of the corporation's outstanding stock is owned by the person who is to perform the personal services. This provision will not be a real problem for medical groups which incorporate except in the rare case where a corporation derives 80% or more of its income from contracts to furnish medical services and where the contracts give the recipients of the medical services the right to designate the physician who will furnish the medical services. In such a situation the group can avoid the tax either by adjusting salaries so as to leave no income in the corporation at the end of the year or, if the corporation has 10 or less shareholders, by having it elect to be taxed as a partnership.

Unreasonable Salaries

The Internal Revenue Service frequently attacks the salaries paid by corporations which have a limited number of shareholders claiming that the salaries are unreasonably high, that they are in effect dividends, and that for this reason only so much of the salaries as are reasonable should be deductible by the corporation in computing its federal income tax. A medical corporation might well be attacked by the Internal Revenue Service on this theory. If it is so attacked and if the attack is successful, an additional tax will be imposed on the corporation at a time when it has paid out in the form of salaries the money that would otherwise be available to pay the tax. It would seem that in most cases the Internal Revenue Service would have little chance of success in attacking a medical corporation on these grounds. In order to be successful, the Service would have to show that the salaries paid to the physicians who are employees of the corporation are unreasonable in the light of the prevailing scale of remuneration for comparable work in a comparable area. Therefore, so long as salaries paid by physicians by professional corporations are kept within the range of what the physicians previously received as partners or associates and so long as there are other physicians in the area who are receiving income either as solo practitioners or as partners or as salary from other medical corporations comparable to the salaries being paid by the professional corporation which is under attack, it would seem that the Service would have little chance of success.

There is one problem in the transition from a partnership or an unincorporated association to a medical corporation that requires considerable thought in order to avoid bunching of income of the former partners or associates in one year. In most cases the predecessor organization will have been on a cash basis for income tax purposes (i.e. reporting income only when collected) and will have substantial accounts receivable which will be uncollected when the medical corporation is formed. In most cases it will be best to continue the predecessor organization in effect until all such accounts receivable have been collected rather than to transfer such accounts receivable to the professional corporation. The professional corporation's income will, therefore, be derived only from medical services performed after it commences operations. Because the physicians who were partners or associates of the predecessor organization will be receiving salaries as employees of the new corporation, careful planning will be required to avoid any bunching of income in a single tax year. In most cases the problem can be avoided or at least minimized by having the payment of salaries to the physician employees deferred or partially deferred so as to even out the physician's taxable income over a two or three year period which includes the year of transition. The exact manner of handling the problem will depend on whether the predecessor partnership was on a calendar or fiscal year basis, the amount of the accounts receivable involved, the proposed salaries, and other similar considerations. An example may illustrate a typical situation and the possible means of handling it.

Assume a medical partnership which for income tax purposes uses a fiscal year ending February 28 and that its partners all report their income (as most individuals do) on a calendar year basis; assume also that a professional corporation is formed and takes over the medical practice of the partnership on March 1, 1962. Because the partnership year ends February 28, 1962, each partner already has a normal year's income in 1962 without drawing any corporate salaries. To avoid making the former partners' 1962 income abnormally large no salary, or at most only a small one, should be paid prior to December 31, 1962, to each former partner in his capacity as employee of the new corporation. If the corporation picked a fiscal year ending January 31, 1963, or February 28, 1963, it would pay to such physicians after January 1, 1963, the salaries that might otherwise have been paid to them in 1962 and thus still get the same deductions for salaries paid as though they were paid ratably over the corporation's tax year. Of course, because the partnership was continued there would also be partnership income in 1963 for the year ended February 28, 1963, but this would be substantially less than a full year's income from the predecessor partnership because it would be only from accounts receivable existing on February 28, 1962. Salaries for the balance of the 1963 calendar year might again have to be held down and in part deferred until after January 1, 1964. However, by such planning the transition can be made without any insurmountable tax problems.

The foregoing example represents the problem in its most aggravated form and the most aggravated form will occur with respect to predecessor organizations which are on a fiscal year rather than a calendar year basis for income tax purposes. A calendar year partnership will have a much less difficult transition problem, but again salaries will probably have to be held down somewhat during the initial year while the predecessor partnership's accounts receivable are being collected.

Conclusion

The Minnesota Professional Corporation Act was designed to and does offer to physicians an opportunity to obtain for themselves many income tax advantages that have for years been available to officers and employees of business corporations. The Keogh bill, often referred to as H.R. 10, is designed to do the same thing. However, the Keogh bill has been before Congress for more than 10 years and Congress has just adjourned again without passing it. Moreover, in view of the Treasury Department's objections to the bill, it appears that if the Keogh bill is ever passed, it will have so many exceptions and conditions tacked on to it that it will not do for the self-employed professional man what its sponsors have hoped it would do. Therefore, Minnesota physicians in their own self-interest should at least make an examination with their lawyers and tax advisers to see what incorporation might mean for them.

H. R. 10*

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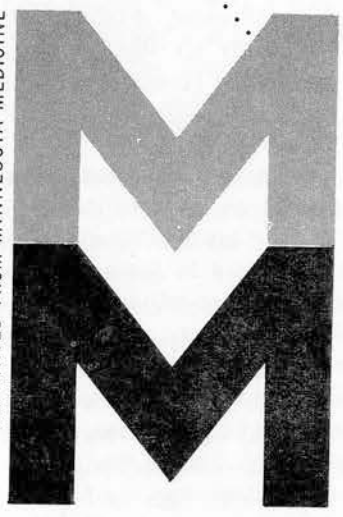

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H. R. 10*

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On October 10 the President signed the Self-Employed Individuals Tax Retirement Act of 1962. It has been reported he signed it over the objections of the Treasury Department and only because he realized that if he vetoed it, its supporters had the votes to pass it over his veto.

The long and impressive name chosen for this Act does not accurately convey its significance. The act stems from the more than 10-year campaign of professional men to gain tax equality for themselves in the retirement plan field through enactment of H. R. 10, commonly known as the Keogh-Smathers Bill. However, the Act that was signed by the President bears little resemblance to H. R. 10 as originally proposed.

A short history of this Act's stormy passage through Congress will be helpful in understanding the provisions of the Act as finally passed and may indicate possible future attitudes of the Treasury Department toward it and toward professional associations and corporations organized under state statutes passed in the last two years.

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History

H. R. 10 originally was quite simple. It provided that each self-employed individual could deduct, in computing his income subject to federal income taxes, amounts deposited in a fund to provide retirement income for himself. The deduction for any year was limited to 10 per cent of an individual's net income or $2500, whichever was the smaller. There were certain provisions in H. R. 10 governing the use that could be made of the fund to make sure it was used for retirement, disability, or death benefits, but practically no other restrictions. In such form it passed the House in 1957 and again in 1959, in each case over the objections of the Treasury Department.

While these developments were taking place, developments were also taking place in a related field of tax law. Professional men — principally physicians — began to form unincorporated associations and claim such organizations should be taxed as corporations so that retirement plans could be adopted covering not only the employees of such organizations but also the associates. By the end of 1959 two court decisions had been handed down holding that physicians might do so, in each case again over the objections of the Treasury Department. The decisions to which I refer are the *Kintner* case and the *Galt* case.

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Toward the end of 1959 the Senate Finance Committee requested the Treasury Department to present a substitute for H. R. 10 which would grant the self-employed some tax equality and would be acceptable to the Treasury. Following receipt of this request the Treasury took two steps. First, it issued proposed regulations designed to prevent most unincorporated associations from being taxed as corporations. Second, it submitted a substitute for H. R. 10.

In its substitute the Treasury stated that it objected to H. R. 10 in its original form because it permitted the self-employed to make contributions to retirement plans for their own benefits without making comparable contributions for the benefit of their employees. This, the Treasury said, would create a precedent for allowing individuals to take tax deductions for sums set aside for retirement, even though historically such favorable tax treatment had been allowed only in the case of non-discriminatory plans for the benefit of employees. The Treasury feared that, on the basis of such precedent, executives and union members would ask for a tax deduction for sums they set aside for their retirement. Accordingly, the Treasury proposed that the self-employed should not be granted the benefits of H. R. 10 unless they established retirement plans covering their employees on some sort of a non-discriminatory basis and with appropriate safeguards.

If the Treasury had stopped its proposal for an alternative to H. R. 10 at this point, the Act would probably have passed in 1960. Unfortunately, the Treasury went further and made several suggestions for change in the then existing tax laws which would have had adverse effects on then existing retirement plans of corporations.

First, the Treasury took the position that an owner-manager of a corporation (a term subsequently defined as one who owns more than 10 percent of the voting stock of a corporation) should thereafter be treated the same as a self-employed person and that retirement plans adopted by corporations which had an owner-manager should be subject to all the restrictions applicable to retirement plans adopted by the self-employed. This would have meant, for example, that a corporation could not contribute to its retirement plan on behalf of an owner-manager more than $2500 per year.

Second, the Treasury took the position that the capital gains treatment for lump sum distributions from retirement plans was not justified and should not be available either for retirement plans of the self-employed or for retirement plans of corporations.

Third, the Treasury took the position that the exemption from the federal estate tax of sums paid from retirement plans to heirs of a deceased employee was not justified and should not be available either for retirement plans of the self-employed or for retirement plans of corporations.

The Senate Finance Committee reported H. R. 10 to the Senate on June 17, 1960, with an amendment making the Treasury's first proposal applicable to all retirement plans and the Treasury's second and third proposals applicable to retirement plans for the self-employed. Largely because of the opposition that developed to the Treasury's first proposal, H.R. 10 was not brought up for consideration by the whole Senate before Congress adjourned in the fall of 1960.

At this point in time the Treasury did not have a law severely restricting the right of the self-employed and of corporations with a 10% stockholder to adopt retirement plans and it was being beseiged by requests from unincorporated associations and partnerships to adopt retirement plans covering partners and associates. As a result it issued in final form on November 15, 1960, the now famous or, if you prefer, infamous Kintner regulations. They were artfully drafted to prevent most unincorporated associations and partnerships from adopting retirement plans covering associates or partners — apparently in an attempt to forestall such action by unincorporated associations and partnerships of professional men at least until the Treasury's substitute for H. R. 10 could be passed and the law would severely restrict their freedom of action.

When the 87th Congress convened in January 1961, H. R. 10 was promptly reintroduced. The House Ways and Means Committee acted favorably on the bill in May 1961 and the Senate Finance Committee in September 1961. Both the House and Senate Committee versions of the bill made the three Treasury Department proposals mentioned above applicable only to retirement plans covering the self-employed. Neither Committee tried to make the proposals applicable to corporate retirement plans.

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H. R. 10 again passed the House in the summer of 1961, but the first session of the 87th Congress adjourned that year before it could be brought before the whole Senate. It did not come before the Senate for consideration until early in September 1962. At that time Senator McCarthy of Minnesota proposed an amendment which restricted contributions to corporate retirement plans for the benefit of an owner-manager to $2500 per year and Senator Gore of Tennessee proposed amendments which eliminated the capital gains treatment and estate tax exemption for distributions from all retirement plans. These amendments, which embodied the three Treasury proposals, were adopted on the floor of the Senate before H. R. 10 was finally passed by the Senate on September 7, 1962.

The opposition that developed to these amendments of Senator McCarthy and Senator Gore was tremendous and in the conference between the House and Senate they were eliminated. As a result none of the Treasury's proposals and none of the other restrictions apply to corporate retirement plans in the Act as repassed by both Houses and finally signed by the President on October 10, 1962; they apply only to retirement plans of the self-employed.

Effective Date

H. R. 10 is effective only with respect to taxable years beginning after December 31, 1962. Clinics on a calendar year basis will not, therefore, be able to take advantage of the law until 1963. Clinics on a fiscal year basis will not be able to take advantage of the law until the start of their first fiscal year beginning after December 31, 1962. For clinics with a September 30 closing, for example, this will mean they cannot take advantage of the law until October 1, 1963.

The Provisions of H. R. 10

H. R. 10 has created three categories of qualified retirement plans. The first is one covering plans adopted by corporations and organizations eligible to be taxed as corporations. The second is one covering plans adopted by a partnership or an unincorporated organization in which no partner or owner has more than a 10% interest in the assets or the profits of the organization. The third is one covering all other unincorporated organizations. The second and third categories are new ones that have been created by H. R. 10 and in each a partner is treated as an employee for the purpose of establishing retirement plans. These two new categories draw a distinction between big and small unincorporated organizations. All partnerships with nine or less partners will have a partner who has more than a 10% interest and will, therefore, fall into the third category. Only a partnership with ten or more partners can possibly qualify in the second category as a firm in which no person has more than a 10% interest in the assets or profits. This distinction between large and small unincorporated organizations is not merely one of terminology. The substantive provisions of the law differ depending on the category into which an organization falls. Corporations receive more favorable treatment than partnerships and large partnerships receive more favorable treatment than small partnerships. The discrimination against the self-employed still remains and it is particularly severe for the small partnerships.

Perhaps the best way to understand the restrictive provisions of H. R. 10 is to look at the requirements imposed by law upon retirement plans and compare how these requirements differ from category to category.

Coverage

The number of persons covered by a retirement plan has an important effect upon its costs. The law for years has required that employees must be covered on a non-discriminatory basis, but the rules against discrimination have not been too hard to live with.

Plans adopted by corporations have traditionally been permitted to exclude from coverage part-time and seasonal employees — those who work less than 20 hours a week or 5 months a year. This right is also granted by H. R. 10 to both large and small partnerships.

Plans adopted by corporations also have traditionally been permitted to exclude from coverage employees with less than 5 years of service and those who have not reached a particular age. Many corporate plans, for example, require for eligibility 5 years of service, plus the attainment of age 30 for males or age 35 for females. By adopting such provisions a corporation may cut down its coverage substantially and thereby reduce the costs of its retirement plan. Corporations may continue to use such eligibility tests. Large partnerships without a 10% partner may also do so.

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However, small partnerships which have a 10% partner may not do so. They will be required to cover all employees with 3 years or more of service and will not be able to exclude employees with 3 or more years of service who have not reached some minimum age. As a result, small partnerships which wish to adopt a plan covering their partners will in most cases have to cover a larger percentage of their employees than do large partnerships or corporations.

Corporations also have traditionally been permitted to limit the coverage of their plans by excluding from coverage hourly paid workers and by covering only salaried employees. This device for limiting coverage will be available to corporations and to large partnerships who do not have a 10% partner. However, a small partnership which has a 10% partner will not be able to use this device to exclude from coverage anyone who has three or more years of service. This rule will also force small partnerships to cover a larger percentage of their employees than large partnerships or corporations.

One point in connection with such means of limiting coverage should be borne in mind. If a group desires to adopt a years of service test for eligibility, the test must apply to both partners and employees. A group will not be permitted to adopt a rule requiring for eligibility 3 years of service by an employee and 1 year of service by a partner. However, there is no prohibition against counting for the purpose of establishing eligibility for either partners or employees years of service with the partnership prior to the passage of H. R. 10. The same result would not ensue were a group to reorganize under one of the professional association or corporation acts. If a group were to do so, the years of service with the prior partnership could be counted by employees for the purpose of establishing eligibility but could not be counted by partners for this purpose. Thus, groups who reorganize under professional association or corporation acts will not be able to adopt a years of service test for eligibility unless the physicians who were formerly partners are willing to wait for coverage of themselves until they have served a probationary period as employees of the professional association or corporation.

The only way for a group to avoid these restrictive rules on coverage and to have a plan covering only physicians is to adopt a policy of discharging each non-professional employee just before he has had 3 years of service with the group. Obviously, this is hardly a practical personnel policy to follow.

There is another requirement with respect to coverage that applies to a small partnership with a 10% partner. If a partner or a group of partners in such a partnership owns more than a 50% interest in the capital or profits of another partnership, the first partnership cannot adopt a plan covering its partners unless the second partnership also adopts a plan covering its employees and the plan provides for the employees of the second partnership benefits as favorable as those provided for the employees of the first partnership and its partners. This requirement will prevent a small medical group from excluding its non-professional personnel from coverage by forming two partnerships — one of which practices medicine, and the other of which owns the equipment, employs the non-professional personnel and makes both available to the first partnership for a fee. Whether the result would be the same were the second firm a corporation rather than a partnership is uncertain.

One final provision with respect to coverage should be mentioned. If a small partnership adopts a retirement plan, no contribution or benefit may be made or provided for a 10% partner unless he consents thereto. As a result, a small partnership will be able to allow each partner who has more than a 10% interest in the capital or profits to decide whether or not he wishes to be covered under its plan. The Act contains no comparable provision for partnerships which have no 10% partner. If any such partnership desires to adopt a plan covering any partner, I am afraid it will have to cover all partners on a non-discriminatory basis and will not be permitted to allow each partner to decide whether or not he wishes to be covered.

Vesting

Vesting is a convenient word used to describe what happens to contributions made to a qualified retirement plan for an employee who quits or is discharged prior to his normal retirement date. It is not uncommon to provide in re-

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tirement plans that such an employee forfeits all or part of what has been contributed for him unless he has been employed a specified number of years. For example, a plan might provide that an employee who quits or is discharged before he has been under the plan one year takes nothing with him, and that for each year of coverage under the plan in excess of one he takes 10% of the contributions made for his benefit. Forfeitures resulting from such a provision can amount to a considerable sum of money where a firm has a large number of women employees who normally quit when they get married. Such sums can be used to considerable advantage in the case of both pension and profit sharing plans to reduce future contributions by the employer or, in the case of profit sharing plans, to increase the benefits for those employees who remain until normal retirement date. Corporations and large partnerships which do not have a 10% partner are free to adopt such vesting provisions if they so desire. However, small partnerships with a 10% partner must provide in their plans that contributions for their employees are non-forfeitable when made. H. R. 10 does contain a provision that the Secretary of the Treasury by regulations may relieve small partnerships from this provision if appropriate provision is made to prevent forfeitures from accruing to the beneft of partners and highly compensated employees. When the Secretary of the Treasury will get around to issuing such regulations, no one can tell.

While these requirements for vesting may increase costs for small groups, they probably are not very different from those most clinics would end up with if they were free to adopt a plan without reference to the provisions of H. R. 10. Most partners would object to a provision in a plan stating that if they resigned from the partnership, they are not entitled to 100% of what has been contributed to a retirement plan for their benefit. Under the law as it existed prior to the passage of H. R. 10, contributions for all employees had to be non-forfeitable when made, if they were non-forfeitable for any employee when made. Therefore, if partnerships had been allowed to adopt retirement plans covering partners before the passage of H. R. 10, I am sure most such plans would have provided contributions for everyone are fully vested when made.

Integration

Another way to cut down the cost of a retirement plan and to have a large percentage of the employer's contributions provide benefits for highly paid employees is to integrate it with social security. While integration is a complicated matter, basically it means that benefits, both from the retirement plan and social security, are uniformly proportionate to salary. Under an integrated plan, an employer may elect to make no contribution with respect to the first $4800 paid to each employee — the amount subject to social security tax — provided the benefits payable on that part of an employee's salary over $4800 do not exceed certain limits. Corporations and large partnerships with no 10% partner may adopt integrated plans provided they meet these traditional requirements for integration. In addition, H. R. 10 allows medical partnerships to assume that their physician-partners are subject to social security for the purpose of meeting the traditional requirement of integration. Small partnerships with a 10% partner will, however, be permitted to adopt integrated plans only if they meet requirements more strict than the traditional ones and in addition only if not more than ⅓ of each annual contribution is made for the benefit of 10% partners. This additional requirement means that small partnerships will have less freedom of action when using integration in an attempt to maximize contributions for the benefit of physicians.

Contributions by Employer

A corporation may contribute to a pension plan so much as is necessary to pay the cost of the plan, to a profit sharing plan up to 15% of the payroll of the covered employees, and to a combined pension and profit sharing plan up to 25% of the payroll of the covered employees.

These rules limiting corporate contributions have not been changed and will apply to contributions by partnerships for the benefit of their employees. They will also apply to partnership contributions for the benefit of persons who are not 10% partners. But for persons who are 10% partners, no more than the lesser of 10% of earned income or $2500 may be contributed annually and, if a person is a 10% partner in two firms, the limitation applies to the aggregate of the two contributions made by both firms on his behalf.

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Earned income to which the 10% limitation on contributions applies is, in the case of a physician, his share of the partnership's net income. Earned income does not include sums received as rent, interest, or dividends.

A corporation is allowed to deduct in computing its income subject to federal income taxes the entire amount it contributes to a qualified retirement plan so long as the contributions are within the over-all limits set forth above. Both large and small partnerships may do likewise with respect to contributions on behalf of employees. However, a partnership, whether large or small, may deduct with respect to a contribution made on behalf of a partner only 50% of the contribution or $1250, whichever is the smaller.

From the foregoing it can be seen that if a partnership adopts a plan calling for an annual contribution of 10% of salary or earned income of all covered employees and partners, it may contribute for a partner whose earned income is $30,000 a year $3000 if he is not a 10% partner, but only $2500 if he is a 10% partner. But no matter what the contribution may be, the firm may not deduct more than $1250 in any year.

One further point with respect to employer contributions should be mentioned. Not only must they be non-discriminatory as between employees and partners, but also they must be non-discriminatory between partners. In other words, it will not be possible to let each partner decide what percentage of his earned income will be contributed to a retirement plan for his benefit. The contribution will have to be computed on the same basis for each partner (except for 10% partners who elect not to be covered) and cannot be more favorable to partners than to employees.

Contributions by Employees

Contributory retirement plans under which the employee contributes part of the cost of the benefits are not uncommon. Employee contributions under such plans are not, of course, deductible in computing the employees' income taxes. There are certain restrictions on such employee contributions to corporate plans to insure that top executives will not contribute a greater percentage of salary than lower paid employees. Partners in large partnerships will be subject to these rather innocuous restrictions. However, partners in a small partnership will be prohibited, in addition, from contributing in any year more than the lesser of $2500 or 10% of their earned income.

Plan Administration

A corporation can name anyone it wants to act as trustee of its retirement plan. A large partnership with no 10% partner may do likewise. However, a small partnership with a 10% partner must name a bank as trustee, except in cases where the fund is invested exclusively in annuity, endowment, or life insurance contracts, in cases where the fund is invested exclusively in mutual funds and a bank is named as custodian to hold the securities, and in cases where the fund is invested in a new type of government bond authorized by H. R. 10.

It is not uncommon for retirement plans to invest in insurance contracts. A type of policy frequently used is one providing $1000 of life insurance for each $10 of retirement income provided. If a corporation's plan invests in insurance contracts of such a nature, the corporation gets a deduction for sums contributed for the purpose of paying premiums on the insurance contracts, but the persons on whose lives the insurance contracts are purchased must include as income an amount equal to the cost of providing a comparable amount of term life insurance. This same rule will apply when partnerships buy insurance contracts of such a nature for their employees. However, if a partnership, whether large or small, causes its plan to buy insurance contracts of such a nature for its partners, the amount of its contribution allocated for such purpose is not deductible in computing the partners' federal income taxes.

One advantage that some medical groups have hoped to obtain from a retirement plan is to have the plan eventually own the groups' building. If this is done, new partners will be able to buy in and deceased or retired partners can be bought out at substantially lower prices. There are no prohibitions against a plan owning a clinic building whether the group be a corporation, a large partnership, or a small partnership. There are, however, restrictions on a plan's right to purchase such building from the group or a building corporation owned by the group. Plans established by small partnerships may not do so under any circumstances and those established by large partnerships and corporations may do so only if they pay a fair price for the building.

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Distribution Dates

Under corporate retirement plans the trustee is usually given broad discretion to determine the method of distribution best suited to each individual's needs. Such discretion is severely limited in connection with distributions to partners in big and small firms. In the case of a partner who does not have a 10% interest, his entire interest must be distributed to him not later than the year in which he becomes 70½ or the year in which he retires, whichever is later. In the case of a 10% partner, his entire interest must be distributed to him not later than the year in which he becomes 70½. The Act authorizes the issuance of regulations permitting installment payments beginning on such dates and continuing over a period not extending beyond the life expectancy of the partner or the partner and his wife.

The Act also requires plans to provide that no benefit may be paid to a 10% partner prior to the time he reaches 59½, except in case he becomes disabled. This will prevent distributions to 10% partners for emergency purposes, on early retirement or on termination of the plan unless such partner has reached 59½ years of age.

Installment Distributions

If an employee covered by a corporate plan to which he has not contributed receives installment payments over a period of years, the entire amount of each distribution is taxable as ordinary income. Partners in both big and small partnerships will receive more favorable treatment. Since only half of their annual contributions will have been deductible in computing their income taxes, they will have paid for out of tax paid income half of what they receive. Therefore, in most cases only half of each installment will be taxable income to a partner or other self-employed person.

Lump Sum Distributions

A beneficiary of a corporate retirement plan who is paid his entire interest under the plan in the year in which his employment is terminated by retirement or otherwise may treat the sums so received as capital gains. This rule for corporate employees remains the same and it will apply to employees of partnerships. The tax treatment of lump sum distributions to a partner whether of a big or small firm is quite different. In any year in which a partner receives a lump sum distribution, he computes what his additional tax would be if he added 1/5 of the distribution to his taxable income. The tax that he must actually pay is 5 times the additional tax so computed. This rule is subject to certain limitation designed to prevent a partner from escaping tax on such distributions by making charitable contributions or other expenditures that are deductible in computing his personal income taxes.

This rule for the taxability of lump sum distributions to partners may not be as burdensome as it sounds at first blush and may even give partners an advantage over corporate employees in sime situations. In the first place it only applies to so much of a lump sum distribution as is attributable to contributions made while he was a partner. So much of such a distribution as results from contributions made while a person was an employee, prior to becoming a partner, is still eligible for capital gains treatment. In the second place, half of most distributions to a partner will not be taxable income in any event as it has been purchased with tax-paid dollars — the half of each annual contribution which is not deductible.

Estate Taxes

Distributions from a corporate retirement plan made after an employee's death to his heirs (but not to his estate) are not considered part of such employee's estate for federal estate tax purposes except to the extent he has contributed to the cost thereof. Well-to-do executives have often reduced estate taxes by leaving intact until their deaths sums accumulated in retirement plans for their benefit and by living off other assets following retirement.

The Act provides that this exemption from estate taxes is not available to partners of either large or small firms.

Other Fringe Benefits

Not only does H. R. 10 discriminate against the self-employed with respect to retirement plans for their benefit, it also discriminates against them with respect to other fringe benefits. Among the fringe benefits that are available to corporate employees are the following:

1. Insurance programs providing group life insurance, group accident and disability insurance, or group health insurance can be established for all employees. Premiums paid for such insurance are deductible when computing a corporation's federal income taxes and will not be taxable income to the employees.

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2. A plan can be established providing for payments to employees who become sick or disabled. If such a plan is adopted, the payments to the employees will be deductible in computing the corporation's federal income taxes and up to $100 per week may be excluded by each employee in computing his income subject to federal income taxes.

3. On the death of an employee up to $5000 may be paid to the widow, estate, or designated heirs of an employee, and such sum will be deductible in computing the corporation's federal income taxes but will not be taxable income to the recipient.

H. R. 10 contains specific provisions to make it clear that if a partner in a partnership, whether large or small, or his heirs receives either type of payment referred to in paragraphs 2 or 3 above, the sums so received constitute taxable income. While the Act does not specifically provide that a partnership will not be able to pay premiums on life, health, and accident insurance taken out for the benefit of a partner and deduct the premiums paid in computing federal income taxes, and that the partner will have to include such premiums in his taxable income, I believe the Treasury will try to interpret the law so as to reach that result. The contrary result in the case of health and accident insurance would not in any event be of much help to partners, for while payments received under such policies are not taxable income if the recipient has paid the premiums, such payments are taxable income to the recipient if his employer has paid the premiums thereon and if the payment does not come under a plan of the type described in paragraph 2 above.

The Verdict for H. R. 10

H. R. 10 is a step in the direction of providing tax equality for the self-employed. But it is only a step and not a very big one. From what has been said it seems obvious that any medical group desiring to establish a retirement plan will be better off from a tax point of view if it incorporates than if it proceeds under H. R. 10; *provided*, of course, the Treasury will permit it to be taxed as a corporation. The provisions of H. R. 10 outlined above placing restrictions on retirement plans and denying other fringe benefits bear out this conclusion, but in the final analysis they are little more than annoyances. The principal problem with H. R. 10 is that there is allowed as a deduction in computing federal income taxes only 50% of what is contributed for each partner and that the deduction cannot exceed in any year the smaller of 50% of each partner's earned income or $1250. A comparison of the tax savings at various income levels under H. R. 10 and under corporate plans will demonstrate the accuracy of this conclusion. In the examples it is assumed the person involved has no outside income, that he files a joint return with his wife, that 10% of his income or $2500, whichever is the smaller, will be contributed to the plan, and that no state income taxes are payable.

Several conclusions can be drawn from an examination of these figures as follows:

1. If an H. R. 10 plan is adopted, it will have to cover on a non-discriminatory basis non-professional personnel as well as physicians. If 10% of the salaries of physicians is contributed to a H. R. 10 plan, 10% of the salaries of non-professional personnel covered by the plan will also have to be contributed. While the amount contributed for the benefit of non-partners will all be deductible in computing federal income taxes, it will of course decrease by the same amount the sums available for distribution to partners. The reduction in a partner's take home pay resulting from such coverage has not been taken into account in making the calculations set forth above and will, of course, vary from group to group. My guess is that for a group which has a 10% partner and one or more non-professionals for each physician, the contributions for non-partners will equal or exceed the tax savings of partners resulting from contributions made for their own benefit. However, if a group already has in effect or plans to place in effect a retirement plan covering its non-professionals, it may be possible to expand such plan to cover partners at little additional cost.

2. If an H. R. 10 plan is adopted, the amounts contributed to it for partners will not be available to them until they retire. Anyone earning between $25,000 and $45,000 a year who makes the maximum annual contribution for his

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Without any Plan		With H. R. 10 Plan		With Corp. Plan	
1. Taxable income	$16,000	Net income	$16,000	Net income	$16,000
Federal income taxes	3,920	Less contribution	1,600	Less contribution	1,600
Spendable income	12,080		14,400		14,400
		Federal income taxes	3,680	Federal income taxes	3,440
		Spendable income	$10,720	Spendable inc.	$10,950
		Tax saving	$240	Tax saving	$480
2. Taxable income	$25,000	Net income	$25,000	Net income	$25,000
Federal income taxes	7,230	Less contribution	2,500	Less contribution	2,500
Spendable income	17,770		22,500		22,500
		Federal income taxes	6,705	Federal income taxes	6,230
		Spendable income	$15,795	Spendable income	$16,270
		Tax saving	$525	Tax Saving	$1,000
3. Taxable income	$35,000	Net income	$35,000	Net income	$35,000
Federal income taxes	11,900	Less contribution	2,500	Less contribution	3,500
Spendable income	23,100		32,500		31,500
		Federal income taxes	11,275	Federal income taxes	10,165
		Spendable income	$21,225	Spendable income	$21,335
		Tax saving	$625	Tax saving	$1,735
4. Taxable income	$45,000	Net income	$45,000	Net income	$45,000
Federal income taxes	17,340	Less contribution	2,500	Less contribution	4,500
Spendable income	27,660		42,500		40,500
		Federal income taxes	16,620	Federal income taxes	14,800
		Spendable income	$25,880	Spendable income	$25,700
		Tax saving	$720	Tax saving	$2,540

own benefit of $2,500 should realize that while his federal income taxes will be cut somewhere between $525 and $720 per year, his spendable income will be cut somewhere between $1,600 and $2,000 a year before considering the effect on his spendable income of contributions he must make for his employees. Unless he is prepared to cut his personal expenses or cut his expenditures for other forms of savings, such as life insurance, he may have trouble adjusting to such a reduction in spendable income.

3. If a medical group incorporates and if it is treated as a corporation for tax purposes, it will have to face both of the problems mentioned in the two preceding paragraphs. However, if such problems can be resolved, the tax savings for a corporate retirement plan will be greater and they will increase as the partner's income increases above $25,000 per year. Moreover, the amounts contributed annually for physicians whose salaries exceed $25,000 will be in excess of $2500 and yet such additional contributions will not result in any appreciable decrease in a physician's spendable income over what it would be under an H. R. 10 plan.

4. If a physician has no employees, he can adopt an H. R. 10 plan which covers only himself, obtain a reduction in his current federal income taxes, and have the earnings and capital gains realized from his contributions accumulate on a tax-free basis. Such a physician should, however, realize that at best he has only deferred federal income taxes on one-half of the sums paid into the plan and on his share of the income and capital gains of the plan. Federal income taxes on such sums will have to be paid when such sums are drawn out of the plan, and a physician must start to draw them out of the plan no later than the year in which he reaches age 70½. Nothing will have been gained by a physician if such sums are drawn out of the plan at a time when his top federal income tax bracket is higher than when the sums were paid in. Therefore, if a physician is to go into such a plan, he should be prepared to restrict his practice and income when he begins to draw sums out of the plan, and in any event he should be prepared to restrict his practice and income no later than the year in which he reaches age 70½, in which year he must begin to draw

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down such sums.

5. The earnings from sums contributed to an H. R. 10 plan are not subject to federal income taxes. The magic of compound interest will, therefore, produce a larger sum for a physician under an H. R. 10 plan than if he invested the sums in securities whose income is subject to federal income taxes. However, practically the same result may be obtained for a physician by investing his savings in tax exempt municipal bonds. The one advantage investment-wise to be obtained from an H. R. 10 plan is that it affords a wider choice of investments and permits a physician to invest in common stocks with substantial growth potentials.

6. If a physician lives in a state which has a state income tax, he should check to see whether or not the income tax laws of his state have been amended to conform to H. R. 10. If they have not, he should realize that the sums contributed to the plan for his benefit probably will not be deductible for state income tax purposes. To date no state has amended its income tax laws so as to conform to R. R. 10.

Prospects for Professional Associations and Corporations

There have been 20 states that have passed statutes in the past two years permitting the formation of professional associations and corporations by physicians and members of other professions and three other states have taken similar action by an Attorney General's opinion or court order. Several hundred groups have organized under these statutes and applied for permission to be taxed as corporations. To the best of my knowledge all of such applications (save one) are still sitting in Washington waiting for a decision by the Treasury.

I think it is clear the Treasury has been sitting on these applications hoping the passage of H. R. 10 would take the pressure off it to approve them. It said as much in 1960 when it submitted its substitute for H. R. 10. Then it said its substitute "would eliminate the problems now resulting from attempts by partnerships to secure classification as a corporation for tax purposes in order to be eligible for coverage in qualified tax plans." This result might have ensued if H. R. 10 had not taken such a restrictive form. But with H. R. 10 passed in such a restrictive form, I am sure many professional groups will continue their efforts to be taxed as corporations in order to obtain more favorable tax treatment. I venture to guess that the Treasury will continue to view such efforts with a jaundiced eye and will not readily grant them their wishes at the administrative level. However, I will predict, as I have in the past, that any group which organizes under a professional corporation act (as distinguished from a professional association act) and takes the Treasury to court on its eligibility to be taxed as a corporation is going to administer a resounding defeat to the Treasury, just as was done in the *Kintner* and *Galt* cases.

Also I believe that we have not heard the end of the Treasury proposals — particularly the one to make corporations with a 10% stockholder subject to all the restrictive provisions of H. R. 10. If tax reform becomes a major piece of Congressional business in 1963, as the President has requested, I feel sure the Treasury will again urge adoption of its proposals which were rejected last month. If its proposals become law so that corporations with 10% stockholders become subject to the restrictive provisions of H. R. 10, then there will no longer be any reasons from a tax point of view to organize as a professional association or corporation, unless your group is large enough so that it has no 10% stockholder or partner.

REPORT ON H. R. 10

Following our entry into World War II and the ensuing rapid rise in personal income tax rates to astronomical heights, deferred compensation plans and other fringe benefits became an accepted way of corporate life. Wage and salary stabilization regulations during World War II and again during the Korean episode helped to achieve this result by permitting the installation of deferred compensation plans and the granting of other fringe benefits in many instances where direct wage and salary increases were prohibited. The final push has come from the fantastic rise in personal incomes during the 1950's and the failure of federal income tax rates to drop.

Professional men have long felt that the tax laws dealt inequitably with them by denying to the self-employed the advantages of deferred compensation plans and other fringe benefits. But in the early 1950's they saw two rays of hope to end this inequity. The first was H. R. 10, first introduced into Congress in 1951, which would have permitted the self-employed to establish deferred compensation plans for their own benefit. The second was the decision in October 1952 in Kintner vs. United States, 107 F. Supp. 976, which held that a group of physicians could organize as an unincorporated association and establish a retirement plan covering its associates who had formerly been partners.

Today, some twelve years after H. R. 10 was first introduced into Congress, it must be admitted that these two rays of hope have

proved to be little more than mirages. Their failure to produce results has been due not to the inactivity of professional people but rather to the deliberate and, in at least one instance, probably illegal activities and attitudes of the Internal Revenue Service and the Treasury Department. Such activities and attitudes cannot be identified with any political party. They have remained the same no matter which party has been in power.

A short review of the development of these activities and attitudes is essential to an understanding of the shortcomings of H. R. 10.

THE KINTNER DEVELOPMENTS

By 1950 there were a considerable number of medical clinics throughout the country that were not incorporated but that were being taxed as corporations. In fact prior to 1950 the Treasury was attacking clinics on the ground they should be taxed as corporations and was successful in establishing this position in the only case involving a medical clinic reported prior to 1950 [Pelton vs. Commissioner, 82 F.(2d) 473 (1936)]. Some of these had adopted deferred compensation plans and other fringe benefits covering persons who, under present Treasury opinion, would probably be regarded as partners and had received approval of such plans from the IRS. And as a result of the wide publicity given to the Kintner case, a constantly increasing number of professional people have been looking for ways and means to do likewise.

However, some time about 1950 the Treasury reversed its position and took the position that unincorporated groups of professional

men were not eligible to be taxed as corporations or to adopt deferred compensation plans covering themselves. The Treasury suffered two smashing defeats in its attempt to establish this position through litigation (See Kintner vs. U. S., 216 F.(2d) 418 and Galt vs. U. S., 175 F. Supp. 360).

At this point the Treasury turned from litigation to regulation to accomplish its ends and issued in November 1960 its association regulations, commonly referred to as the Kintner regulations (Treas. Reg. Sec. 301.7701-2). These regulations were a complete capitulation to the oil, real estate, and theater syndicates who do not wish to be taxed as corporations. (See "Effect of Regulations on Real Estate Syndicates" on p. 1065 of NYU 19th Institute on Federal Tax, by Edward C. Rustigan, who was formerly on the legal staff of the Treasury and one of the drafters of the Kintner regulations.) They were also a humiliating defeat for the professional men who wish to be so taxed. They are clearly an attempt to overthrow the court decisions in the Kintner and Galt cases, for in view of their statements that organizations subject to the Uniform Partnership Act cannot meet the tests of continuity of life, centralized management, and limited liability, it is clear that the organizations involved in the Kintner and Galt cases would not be eligible to be taxed as corporations under the Kintner regulations. Moreover, as has been said by the Chief of Staff to Joint Committee on Internal Revenue Taxation, there is "strong doubt as to whether such regulations are justified under the existing law as construed by the courts."

The Kintner regulations, however, contained a provision that suggested a way to get around the Treasury opposition. It stated that state law "governs in determining whether the legal relationships which have been established in the formation of an organization are such that the standards are met." Treasury officials have stated they adopted this approach because if they took the approach that the provisions of the documents govern, professional people would be free to choose for themselves whether or not they would be taxed as a corporation and because they were unwilling to grant this choice to professional men. But the Treasury either overlooked or ignored the trap it laid for itself by providing that state law governs. If state law governs, it can be changed and will readily be changed by state legislatures which are quite sympathetic to pleas for help to reduce the federal tax burden of the citizens of their states. Before the ink was hardly dry on the Kintner regulations, state legislatures and other state officials began to act. To date 20 state legislatures (Alabama, Arizona, Arkansas, Connecticut, Florida, Georgia, Illinois, Kentucky, Michigan, Minnesota, New Jersey, Ohio, Oklahoma, Pennsylvania, South Carolina, South Dakota, Tennessee, Texas, Virginia, and Wisconsin) have passed laws designed to help one or more professions get around the Kintner regulations; the attorneys general of 3 states (Michigan, Ohio, and Pennsylvania) have issued rulings to the effect that professional men may organize under the limited partnership association acts which have been on the books of those states since the 19th century; and two state supreme courts (Colorado and Florida) have issued opinions affecting lawyers. The states are still continuing to act. So far in 1963 bills affecting

one or more professions have been introduced in 9 state legislatures (California, Massachusetts, Minnesota, Missouri, Montana, New Mexico, Rhode Island, South Dakota, and Wyoming).

A large number of professional groups have organized under these statutes and filed applications under Revenue Procedure 61-11 to be taxed as corporations. Only one such application has been acted upon -- that of the Colony Medical Group, which was organized under a Connecticut statute permitting the incorporation of physicians and passed some years prior to the issuance of the Kintner regulations. (CCH Pension Plan Guide, Par. 16.312.) The ruling holds that the Colony Medical Group is eligible to be taxed as a corporation and that the physicians who were partners in the predecessor organization are employees for whom a deferred compensation plan may be established. If this ruling were indicative of the current thinking of the Treasury and the IRS, professional men in the twenty odd states which have so far acted would be out of the woods for the statutes in those states are, or could by simple amendment be made, sufficiently similar to the Connecticut statute to bring groups organized under them within the Colony Medical Group ruling. However, the Colony Medical Group ruling was issued on March 2, 1961, before a single state had acted and before the Treasury and the IRS really knew what they were in for. The lack of action since that time, despite the large number of applications on hand, indicates that the Treasury and the IRS are taking a new look at the situation.

What the final outcome will be is uncertain. But if the views expressed in informal conferences and past attitudes are indications of things to come, it can be predicted that the Treasury and the IRS will

use the technicalities of the Kintner regulations to deny corporate status in every possible case.

If the Treasury and the IRS deny corporate status to groups organized under these new state statutes, they will probably suffer further defeats in the litigation that will inevitably ensue. It might be said in support of such denial that Congress by denying in Subchapter R the right of professional men to be taxed as a corporation thereunder intended they should never be taxed as a corporation. But if this be so, why do the Kintner regulations contain Example 1 in which a group of physicians organized under the laws of a state which has the proper provisions in its laws are allowed to be taxed as a corporation? This would seem to indicate there is no such policy. Moreover, how can the Treasury and the IRS say that all groups organized under a particular state professional corporation act are not corporations? Since the Internal Revenue Code contains no definition of the term "corporation" and since authority to create corporations is vested in the states, it would appear that the Code has accepted state terminology. (Compare U. S. vs. Cambridge Loan & Building Co., 278 U.S. 55.) Moreover, if the Treasury and the IRS refuse to accept state terminology, taxpayers will undoubtedly take a similar position when claims for personal holding company surtax and accumulated earnings surtax are asserted against them. Finally the Treasury and the IRS would appear to be precluded from taking the position that the professions may not do business in corporate form because the courts have rejected this argument (see U.S. vs. Kintner and Pelton vs. Commissioner, supra) and

because in Revenue Ruling 57-546 it was announced that the "usual tests" would be applied to professional groups. The Government's dilemma is obvious.

If corporate status is denied on the basis of the wording of a state statute under which a group is organized, the state will probably amend its statute to meet the objection. Minnesota has already taken a step in this direction. It has amended in 1963 its professional corporation act passed in 1961 for fear that the 1961 act did not meet the tests of limited liability and transferability of interests.

The solution to the problem thus may depend on the ultimate winner in a contest of wits between state legislatures on the one hand and the Treasury and the IRS on the other. The absurdity of this situation is obvious. The Treasury should either admit that the state statutes have accomplished the purpose for which they were passed or withdraw that part of the Kintner regulations which provides that state law determines whether or not a group is eligible to be taxed as a corporation. Its failure to do so indicates the Treasury will go to almost any length to deny tax equality to professional men.

THE H. R. 10 DEVELOPMENTS

H. R. 10 as originally introduced in 1951 was quite simple and bore little or no resemblance to the Self-Employed Individuals Tax Retirement Act of 1962. It provided that the self-employed could deduct, in computing their income subject to federal income taxes, amounts deposited in funds to provide retirement income for themselves.

The deduction for each individual for any one year was limited in various ways in the various bills introduced over the years but was generally thought to be 10% of an individual's income or a stated figure such as $5,000, whichever was the smaller. There were certain provisions in these bills governing the use that could be made of the fund to make sure it was used for retirement, disability, or death benefits but few other restrictions. More or less in such form H. R. 10 passed the House in 1957 and again in 1959, in each case over the objections of the Treasury. (See Rapp, The Quest for Tax Equality for Private Pension Plans, 14 Tax L. Rev. 55.)

Toward the end of 1959 the Senate Finance Committee requested the Treasury to present a substitute for H. R. 10 which would grant the self-employed some tax equality and would be acceptable to the Treasury. This request was under consideration in the Treasury at the same time as the Kintner regulations and the comments thereon from members of the public. Treasury officials frankly admitted that the two subjects were considered together and that the Treasury's aim was to deny professional men the advantages of the Kintner case and to force them to look to H. R. 10 for their qualified retirement plans.

The Treasury's substitute for H. R. 10 was presented to the Senate Finance Committee on April 1, 1960. (For a detailed explanation, see Rapp "Pensions for the Self-Employed: The Treasury Department-Finance Committee Plan, 16 Tax L. Rev. 227.)

In its substitute the Treasury stated that it objected to H. R. 10 in its original form because it permitted the self-employed

to make contributions to retirement plans for their own benefits without making comparable contributions for the benefit of their employees. This, the Treasury said, would create a precedent for allowing individuals to take tax deductions for sums set aside for retirement, even though historically such favorable tax treatment had been allowed only in the case of non-discriminatory plans for the benefit of employees. The Treasury feared that, on the basis of such precedent, executives and union members would ask for a tax deduction for sums they set aside for their retirement. Accordingly, the Treasury proposed that the self-employed should not be granted the benefits of H. R. 10 unless they established retirement plans covering their employees on some sort of a non-discriminatory basis and with appropriate safeguards.

If the Treasury had stopped its proposal for an alternative to H. R. 10 at this point, the Act would probably have passed in 1960. Unfortunately, the Treasury went further and made several suggestions for change in the then existing tax laws which would have had adverse effects on then existing retirement plans of corporations.

First, the Treasury took the position that an owner-manager of a corporation (a term subsequently defined as one who owns more than 10 per cent of the voting stock of a corporation) should thereafter be treated the same as a self-employed person and that retirement plans adopted by corporations which had an owner-manager should be subject to all the restrictions applicable to retirement plans adopted by the self-employed. This would have meant, for example, that a corporation could not contribute to its retirement plan on behalf of an owner-manager more than $2500 per year.

Second, the Treasury took the position that the capital gains treatment for lump sum distributions from retirement plans was not justified and should not be available either for retirement plans of the self-employed or for retirement plans of corporations.

Third, the Treasury took the position that the exemption from the federal estate tax of sums paid from retirement plans to heirs of a deceased employee was not justified and should not be available either for retirement plans of the self-employed or for retirement plans of corporations.

The Treasury's position was in essence that H. R. 10 should not be passed until its suggested changes in existing law were also passed. The Treasury was insisting on a quid pro quo.

The Senate Finance Committee reported H. R. 10 to the Senate on June 17, 1960, with an amendment making the Treasury's first proposal applicable to all retirement plans and the Treasury's second and third proposals applicable to retirement plans for the self-employed. Largely because of the opposition that developed to the Treasury's first proposal, H. R. 10 was not brought up for final action by the whole Senate before Congress adjourned in the fall of 1960.

However, in the 1960 debate on H. R. 10 Senator Long, an apponent of the bill, proposed an amendment which would have allowed the self-employed to deduct only half of what he contributed for his benefit to a plan. The Senator stated that his proposal was in line with the principle that Congress adopted when it set up the Civil Service Reitrement System under which the employees and the Government each contribute half of the cost and under which the employee pays his half out

of tax-paid income. Senator Smathers, the sponsor of H. R. 10 in the Senate, stated before the Senate adjourned that he would accept the Long amendment. This was the only discrimination contained in H. R. 10 that was not the brain child of the Treasury.

When Congress reconvened in 1961, H. R. 10 was promptly reintroduced. The House Ways and Means Committee acted favorably on the bill in May 1961 and it passed the House that summer. The Senate Finance Committee acted favorably in September 1961, but it did not come before the Senate for consideration until September 1962. When it came up on the Senate floor, Senator McCarthy of Minnesota and Senator Gore of Tennessee induced the Senate to make the three Treasury proposals of 1960 applicable to corporate plans. Fortunately, the conferees struck these out and without them the President signed H. R. 10 on October 10, 1962.

THE INEQUITIES OF H. R. 10

If H. R. 10 is viewed from the standpoint of eliminating the discrimination against professional men, the act must be considered a dismal failure. Its only significance from this point of view would be in the fact that it recognizes the discrimination against professional men and that it may form the basis for a future narrowing of the discrimination. But at this time it is difficult to predict whether any such narrowing will take the form of more tax benefits for professional men or fewer tax benefits for corporate employees.

H. R. 10 has created three categories of qualified retirement plans. The first is one covering plans adopted by corporations

and organizations eligible to be taxed as corporations. The second is one covering plans adopted by a partnership or an unincorporated organization in which no partner or owner has more than a 10% interest in the assets or the profits of the organization. The third is one covering all other unincorporated organizations. The second and third categories are new ones that have been created by H. R. 10 and in each a partner is treated as an employee for the purpose of establishing retirement plans. These two new categories draw a distinction between big and small unincorporated organizations. All partnerships with nine or less partners will have a partner who has more than a 10% interest and will, therefore, fall into the third category. Only a partnership with ten or more partners can possibly qualify in the second category as a firm in which no person has more than a 10% interest in the assets or profits. This distinction between large and small unincorporated organizations is not merely one of terminology. The substantive provisions of the law differ depending on the category into which an organization falls. Corporations receive more favorable treatment than partnerships and large partnerships receive more favorable treatment than small partnerships. The discrimination against the self-employed still remains and it is particularly severe for the small partnerships.

Perhaps the best way to understand the restrictive provisions of H. R. 10 is to look at the requirements imposed by law upon retirement plans and compare how these requirements differ from category to category.

COVERAGE. The number of persons covered by a retirement plan has an important effect upon its costs. The law for years has required that employees must be covered on a non-discriminatory basis, but the rules against discrimination have not been too hard to live with.

Plans adopted by corporations have traditionally been permitted to exclude from coverage part-time and seasonal employees -- those who work less than 20 hours a week or 5 months a year. This right is also granted by H. R. 10 to both large and small partnerships.

Plans adopted by corporations also have traditionally been permitted to exclude from coverage employees with less than 5 years of service and those who have not reached a particular age. Many corporate plans, for example, require for eligibility 5 years of service, plus the attainment of age 30 for males or age 35 for females. By adopting such provisions a corporation may cut down its coverage substantially and thereby reduce the costs of its retirement plan. Corporations may continue to use such eligibility tests. Large partnerships without a 10% partner may also do so. However, small partnerships which have a 10% partner may not do so. They will be required to cover all employees with 3 years or more of service and will not be able to exclude employees with 3 or more years of service who have not reached some minimum age. As a result, small partnerships which wish to adopt a plan covering their partners will in most cases have to cover a larger percentage of their employees than do large partnerships or corporations.

Corporations also have traditionally been permitted to limit the coverage of their plans by excluding from coverage hourly paid workers and by covering only salaried employees. This device for

limiting coverage will be available to corporations and to large partnerships who do not have a 10% partner. However, a small partnership which has a 10% partner will not be able to use this device to exclude from coverage anyone who has three or more years of service. This rule will also force small partnerships to cover a larger percentage of their employees than large partnerships or corporations.

One point in connection with such means of limiting coverage should be borne in mind. If a group desires to adopt a years-of-service test for eligibility, the test must apply to both partners and employees. A group will not be permitted to adopt a rule requiring for eligibility 3 years of service by an employee and 1 year of service by a partner.

The only way for a group to avoid these restrictive rules on coverage and to have a plan covering only professional men would be to discharge each lay employee just before he attains 3 years of service. Obviously this is hardly a practical solution.

There is another requirement with respect to coverage that applies to a small partnership with a 10% partner. If a partner or a group of partners in such a partnership owns more than a 50% interest in the capital or profits of another partnership, the first partnership cannot adopt a plan covering its partners unless the second partnership also adopts a plan covering its employees and the plan provides for the employees of the second partnership benefits as favorable as those provided for the employees of the first partnership and its partners. This provision will prevent a small group from excluding its non-professional personnel from coverage by forming two partnerships --

one of which practices the profession and the other of which owns the equipment, employs the non-professional personnel and makes both available to the first partnership for a fee. Whether the result would be the same were the second firm a corporation rather than a partnership is uncertain.

One final provision with respect to coverage should be mentioned. If a small partnership adopts a retirement plan, no contribution or benefit may be made or provided for a 10% partner unless he consents thereto. As a result, a small partnership will be able to allow each partner who has more than a 10% interest in the capital or profits to decide whether or not he wishes to be covered under its plan. The Act contains no comparable provision for partnerships which have no 10% partner. If any such partnership desires to adopt a plan covering any partner, it will probably have to cover all partners on a non-discriminatory basis and will not be permitted to allow each partner to decide whether or not he wishes to be covered.

VESTING. Vesting is a convenient word used to describe what happens to contributions made to a qualified retirement plan for an employee who quits or is discharged prior to his normal retirement date. It is not uncommon to provide in retirement plans that such an employee forfeits all or a part of what has been contributed for him unless he has been employed a specified number of years. For example, a plan might provide that an employee who quits or is discharged before he has been under the plan one year takes nothing with him, and that for each year of coverage under the plan in excess of one he takes 10%

of the contributions made for his benefit. Forfeitures resulting from such a provision can amount to a considerable sum of money where a firm has a large number of women employees who normally quit when they get married or pregnant. Such sums can be used to considerable advantage in the case of both pension and profit sharing plans to reduce future contributions by the employer or, in the case of profit sharing plans, to increase the benefits for those employees who remain until normal retirement date. Corporations and large partnerships which do not have a 10% partner are free to adopt such vesting provisions if they so desire. However, small partnerships with a 10% partner must provide in their plans that contributions for their employees are non-forfeitable when made.

While these requirements for vesting may increase costs for small groups, they probably are not very different from those most professional men would end up with if they were free to adopt a plan without reference to the provisions of H. R. 10. Most partners would object to a provision in a plan stating that if they resigned from the partnership, they are not entitled to 100% of what has been contributed to a retirement plan for their benefit. Under the law as it existed prior to the passage of H. R. 10, contributions for all employees had to be non-forfeitable when made, if they were non-forfeitable for any employee when made. Therefore, if partnerships had been allowed to adopt retirement plans covering partners before the passage of H. R. 10, most such plans would have provided contributions for everyone are fully vested when made.

INTEGRATION. Another way to cut down the cost of a retirement plan and to have a large percentage of the employer's contributions

provide benefits for highly paid employees is to integrate it with social security. While integration is a complicated matter, basically it means that benefits, both from the retirement plan and social security, are uniformly proportionate to salary. Under an integrated plan, an employer may elect to make no contribution with respect to the first $4800 paid to each employee -- the amount subject to social security tax -- provided the benefits payable on that part of an employee's salary over $4800 do not exceed certain limits. Corporations and large partnerships with no 10% partner may adopt integrated plans provided they meet these traditional requirements for integration. In addition, H. R. 10 allows medical partnerships to assume that their physician-partners are subject to social security for the purpose of meeting the traditional requirements of integration. Small partnerships with a 10% partner will, however, be permitted to adopt integrated plans only if they meet requirements more strict than the traditional ones and in addition only if not more than 1/3 of each annual contribution is made for the benefit of 10% partners. This additional requirement means that small partnerships will have less freedom of action when using integration in an attempt to maximize contributions for the benefit of physicians.

CONTRIBUTIONS BY EMPLOYER. A corporation may contribute to a pension plan so much as is necessary to pay the cost of the plan, to a profit sharing plan up to 15% of the payroll of the covered employees, and to a combined pension and profit sharing plan up to 25% of the payroll of the covered employees.

These rules limiting corporate contributions have not been changed and will apply to contributions by partnerships for the benefit

of their employees. They will also apply to partnership contributions for the benefit of persons who are not 10% partners. But for persons who are 10% partners, no more than the lesser of 10% of earned income or $2500 may be contributed annually and, if a person is a 10% partner in two firms, the limitation applies to the aggregate of the two contributions made by both firms on his behalf. Earned income does not include sums received as rent, interest, or dividends.

A corporation is allowed to deduct in computing its income subject to federal income taxes the entire amount it contributes to a qualified retirement plan so long as the contributions are within the over-all limits set forth above. Both large and small partnerships may do likewise with respect to contributions on behalf of employees. However, a partnership, whether large or small, may deduct with respect to a contribution made on behalf of a partner only 50% of the contribution or $1250, whichever is the smaller.

From the foregoing it can be seen that if a partnership adopts a plan calling for an annual contribution of 10% of salary or earned income of all covered employees and partners, it may contribute for a partner whose earned income is $30,000 a year $3000 if he is not a 10% partner, but only $2500 if he is a 10% partner. But no matter what the contribution may be, the firm may not deduct more than $1250 in any year.

One further point with respect to employer contributions should be mentioned. Not only must they be non-discriminatory as between employees and partners, but also they must be non-discriminatory between

partners. In other words, it will not be possible to let each partner decide what percentage of his earned income will be contributed to a retirement plan for his benefit. The contribution will have to be computed on the same basis for each partner (except for 10% partners who elect not to be covered) and cannot be more favorable to partners than to employees.

CONTRIBUTIONS BY EMPLOYEES. Contributory retirement plans under which the employee contributes part of the cost of the benefits are not uncommon. Employee contributions under such plans are not, of course, deductible in computing the employees' income taxes. There are certain restrictions on such employee contributions to corporate plans to insure that top executives will not contribute a greater percentage of salary than lower paid employees. Partners in large partnerships will be subject to these rather innocuous restrictions. However, partners in a small partnership will be prohibited, in addition, from contributing in any year more than the lesser of $2500 or 10% of their earned income.

PLAN ADMINISTRATION. A corporation can name anyone it wants to act as trustee of its retirement plan. A large partnership with no 10% partner may do likewise. However, a small partnership with a 10% partner must name a bank as trustee, except in cases where the fund is invested exclusively in annuity, endowment, or life insurance contracts, in cases where the fund is invested exclusively in mutual funds and a bank is named as custodian to hold the securities, and in cases where the fund is invested in a new type of government bond authorized by H. R. 10.

One advantage that some medical groups have hoped to obtain from a retirement plan is to have the plan eventually own the group's building. If this is done, new partners will be able to buy in and deceased or retired partners can be bought out at substantially lower prices. There are no prohibitions against a plan owning a clinic building whether the group be a corporation, a large partnership, or a small partnership. There are, however, restrictions on a plan's right to purchase such building from the group or a building corporation owned by the group. Plans established by small partnerships may not do so under any circumstances and those established by large partnerships and corporations may do so only if they pay a fair price for the building.

DISTRIBUTION DATES. Under corporate retirement plans the trustee is usually given broad discretion to determine the method of distribution best suited to each individual's needs. Such discretion is severely limited in connection with distributions to partners in big and small firms. In the case of a partner who does not have a 10% interest, his entire interest must be distributed to him not later than the year in which he becomes $70\frac{1}{2}$ or the year in which he retires, whichever is later. In the case of a 10% partner, his entire interest must be distributed to him not later than the year in which he becomes $70\frac{1}{2}$.

The Act also requires plans to provide that no benefit may be paid to a 10% partner prior to the time he reaches $59\frac{1}{2}$, except in case he becomes disabled. This will prevent distributions to 10% partners for emergency purposes, on early retirement or on termination

of the plan unless such partner has reached 59½ years of age.

INSTALLMENT DISTRIBUTIONS. If an employee covered by a corporate plan to which he has not contributed receives installment payments over a period of years, the entire amount of each distribution is taxable as ordinary income. Partners in both big and small partnerships will receive more favorable treatment. Since only half of their annual contributions will have been deductible in computing their income taxes, they will have paid out of tax paid income a considerable portion of what they receive. Therefore, in most cases only a portion of each installment will be taxable income to a partner or other self-employed person.

LUMP SUM DISTRIBUTIONS. A beneficiary of a corporate retirement plan who is paid his entire interest under the plan in the year in which his employment is terminated by retirement or otherwise may treat the sums so received as long-term capital gains. This rule for corporate employees remains the same and it will apply to employees of partnerships. The tax treatment of lump sum distributions to a partner, whether of a big or small firm, is quite different. In any year in which a partner receives a lump sum distribution, he computes what his additional tax would be if he added 1/5th of the distribution to his taxable income. The tax that he must actually pay is five times the additional tax so computed.

This rule for the taxability of lump sum distributions to partners may not be as burdensome as it sounds at first blush and may even give partners an advantage over corporate employees in some

situations. In the first place, it only applies to so much of a lump sum distribution as is attributable to contributions made while he was a partner. So much of such a distribution as results from contributions made while a person was an employee, prior to becoming a partner, is still eligible for capital gains treatment. In the second place, a considerable portion of most distributions to a partner will not be taxable income in any event as it has been purchased with tax-paid dollars -- the half of each annual contribution which is not deductible.

ESTATE TAXES. Distributions from a corporate retirement plan made after an employee's death to his heirs (but not to his estate) are not considered part of such employee's estate for federal estate tax purposes except to the extent he has contributed to the cost thereof. Well-to-do executives have often reduced estate taxes by leaving intact until their deaths sums accumulated in retirement plans for their benefit and by living off other assets following retirement.

The Act provides that this exemption from estate taxes is not available to partners of either large or small firms.

OTHER FRINGE BENEFITS. Not only does H. R. 10 discriminate against the self-employed with respect to retirement plans for their benefit, it also discriminates against them with respect to other fringe benefits. Among the fringe benefits that are available to corporate employees are the following:

1. Insurance programs providing group life insurance, group accident and disability insurance, or group health insurance can be

established for all employees. Premiums paid for such insurance are deductible when computing a corporation's federal income taxes and will not be taxable income to the employees.

2. A plan can be established providing for payments to employees who become sick or disabled. If such a plan is adopted, the payments to the employees will be deductible in computing the corporation's federal income taxes and up to $100 per week may be excluded by each employee in computing his income subject to federal income taxes.

3. On the death of an employee up to $5000 may be paid to the widow, estate, or designated heirs of an employee, and such sum will be deductible in computing the corporation's federal income taxes but will not be taxable income to the recipient.

H. R. 10 contains specific provisions to make it clear that if a partner in a partnership, whether large or small, or his heirs receives either type of payment referred to in paragraphs 2 or 3 above, the sums so received constitute taxable income. While the Act does not specifically provide that a partnership will not be able to pay premiums on life, health, and accident insurance taken out for the benefit of a partner and deduct the premiums paid in computing federal income taxes, and that the partner will have to include such premiums in his taxable income, the Treasury will probably try to interpret the law so as to reach that result. The contrary result in the case of health and accident insurance would not in any event be of much help to partners, for while payments received under such policies are not taxable income if the recipient has paid the premiums, such payments are taxable

income to the recipient if his employer has paid the premiums thereon and if the payment does not come under a plan of the type described in paragraph 2 above.

THE VERDICT. The principal problem with H. R. 10 is that the self-employed may contribute only the lesser of 10% of earned income or $2500, and that only 50% of the contribution for the self-employed is tax deductible. A comparison of an H. R. 10 plan with a corporate plan is revealing. The following table sums up the results for a professional man himself under varying circumstances:

Annual earned income	$20,000	$30,000	$40,000
Maximum contribution under H.R.10	2,000	2,500	2,500
After tax cost of contribution	1,660	1,963	1,838
Accumulation after 20 years at 7% per year (3½% income, 3½% capital increase)	88,000	109,600	109,600
Maximum contribution under corporate plan	3,000	4,500	6,000
After tax cost of contribution	1,980	2,565	2,820
Accumulation after 20 years at 7%	132,000	198,800	264,000

The discriminatory treatment of the self-employed in H. R. 10 is obvious from the foregoing table. In addition, the requirements with respect to coverage and vesting will increase the costs of an H. R. 10 plan substantially over those of a corporate plan and correspondingly reduce the spendable income of the self-employed. For those groups with employees, no retirement plan and investment of surplus funds in tax exempt municipal bonds may produce better results in the long run.

Finally the requirement in H. R. 10 that distribution must begin at age 70½ creates a real problem for professional men. A person who contributes to an H. R. 10 plan for himself has at best only deferred income taxes on one-half of the sums paid into the plan and on his share of the income and capital appreciation of the plan. Federal income taxes on such sums will have to be paid when such sums are drawn out of the plan and a professional man must begin to draw them out no later than the year in which he reaches age 70½. Nothing will have been gained if such sums are drawn out at a time when the recipient's top income tax bracket is higher than when the sums were paid in. A Professional man will, therefore, have to do some crystal-ball gazing to determine whether there is anything possible in H. R. 10 for him.

CONCLUSION

Any person who thinks that Congress has extended to professional men the benefit of deferred compensation plans and other fringe benefits available to corporate employees should read H. R. 10 carefully. The benefits ordinarily associated with corporate employment have been denied in the case of fringe benefits and have been so circumscribed in the case of deferred compensation plans that they are hardly recognizable.

It would appear that the Treasury has no present intention of removing these discriminations against professional men if Secretary Dillon's testimony before the House Ways and Means Committee on February 6, 1963 is to be taken at face value. At that time he

elaborated on the President's suggestion that lump sum distributions from deferred compensation plans should no longer be entitled to long-term capital gains treatment. He suggested that there should be substituted the 5-year averaging method used in H. R. 10 but that corporate employees in computing the rate to be applied could exclude from income any salary received in the year the lump sum is received. Secretary Dillon specifically stated that H. R. 10 should not be similarly changed to give professional men the same benefit.

Assist: Hannaford

COPY

June 23, 1964

Jule M. Hannaford, Esquire
Dorsey, Owen, Marquart, Windhorst & West
2400 First National Bank Building
Minneapolis, Minnesota 55402

Dear Mr. Hannaford:

I am enclosing a copy of a letter I have received from the Internal Revenue Service regarding regulations which relate to the classification of professional organizations for Federal tax purposes.

You are probably already aware of the position which Mr. Lewis sets forth. I hope that you feel your participation in the March public hearings was worthwhile. Please keep me advised on any further developments.

Best wishes.

Sincerely yours,

Hubert H. Humphrey

Enclosures

U.S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

IN REPLY REFER TO
T:P:IA-3
R-907(P)

RECEIVED
JUN 6 1964

JUN 4 1964

Dear Senator Humphrey:

This is in further response to your letter of April 23, 1964, forwarding a letter from Mr. Jule M. Hannaford of the law firm of Dorsey, Owen, Marquart, Windhorst & West, Minneapolis, Minnesota, concerning the proposed amendments to the Regulations on Procedure and Administration under section 7701 of the Internal Revenue Code, relating to the classification of professional organizations for Federal tax purposes. Mr. Hannaford presents critical comments on the various provisions of the proposed amendments and concludes that the Internal Revenue Service should give effect to State statutes authorizing the incorporation of professional organizations.

You request a statement of the Service's views on the position set forth in Mr. Hannaford's letter. It is one of many letters we have received which are basically directed at the application of the proposed amendments to professional organizations formed under the recently enacted State enabling statutes authorizing the incorporation or association of such organizations. These letters generally reflect the desire of professional individuals to receive the benefits presently afforded corporate owner-managers with respect to pension and profit-sharing plans for retirement purposes. While this desire is understandable, present law precludes self-employed individuals from obtaining such equal treatment.

In H. R. 10, Self-Employed Individuals Tax Retirement Act of 1962, Congress has provided a substitute income deferment arrangement for individuals, including members of partnerships or associations, under which a professional man may contribute annually a portion of his income to a retirement plan for himself and obtain a tax deduction for so much of each annual contribution as the Act permits. The existing regulations and the proposed amendments do not restrict the right of a professional individual to adopt a pension plan under H. R. 10. However, the

limitations in H. R. 10 on pension benefits for the self-employed, including the professionals, are strict, precise, and much less generous than the benefits available to owner-managers who participate in the corporate-type pension plans which are qualified under section 401 (a) of the Code.

The proposed amendments are intended to clarify present regulations in the light of the recently enacted State statutes. These amendments set forth, in greater detail, the basic characteristics required of a professional organization in order to be considered a corporation for Federal tax purposes. The characteristics enumerated are those possessed by an ordinary business corporation, the most relevant of which are: continuity of life, centralized management, limited liability, and free transferability of interest. The existing regulations and the proposed amendments thereto require that a professional corporation or association have a majority of these characteristics for classification as a corporation for Federal tax purposes.

The amendments are not designed to deny corporate treatment for Federal tax purposes to professional corporations formed under the recently enacted State statutes, but their intent is to require such an organization to be a corporation in substance as well as in form. The professional organization must be more in the nature of a corporation than a partnership.

Mr. Hannaford presented his comments orally at the public hearing on these amendments which was held on March 4, 5, and 6, 1964. You may be assured that the comments expressed at the hearing, together with other comments and suggestions received, are being given careful consideration prior to the issuance of any final amendments to the regulations.

Your interest in bringing Mr. Hannaford's letter to our attention is appreciated. If we can be of any further assistance or furnish you with additional information, please let us know. Mr. Hannaford's letter is returned herewith.

Sincerely yours,

Maurice Lewis

Director, Technical Planning Division

Honorable Hubert H. Humphrey
United States Senate
Washington, D. C.

Enclosures - 2

United States Senate

COMMITTEE ON FOREIGN RELATIONS

April 23, 1964

The Honorable Mortimer M. Caplin
Commissioner of Internal Revenue
Department of the Treasury
Washington, D. C.

19555

Dear Commissioner:

I have received the attached letter concerning IRS regulations relating to the retirement provisions of professional corporations.

I would appreciate very much receiving a statement of the Service's views on the position set forth in the attached letter.

Your help and cooperation will be much appreciated.

Sincerely yours,

Hubert H. Humphrey

Hubert H. Humphrey

Enclosures

2150
R-907(P)

JAMES E. DORSEY (1889-1959)
DAVID E. BRONSON
KENNETH M. OWEN
DONALD WEST
WALDO F. MARQUART
JOHN W. WINDHORST
HENRY HALLADAY
JULE M. HANNAFORD
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LAW OFFICES

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MINNEAPOLIS, MINN. 55402

FEDERAL 2-3351

OF COUNSEL
LEAVITT R. BARKER
LELAND W. SCOTT
HUGH H. BARBER

Honorable Mortimer M. Caplin
Commissioner of Internal Revenue
Attention: T:P
Washington, D. C. 20224

Dear Sir:

We are attorneys for the Medical Group Management Association (formerly known as the National Association of Clinic Managers) which has a membership representing in excess of 550 medical groups. We are also attorneys for the Minnesota State Medical Association, which has a membership of nearly 4000 physicians. As such attorneys we are writing to give you the comments and suggestions of both Associations on the proposed Regulations which would amend Sections 301.7701-1 and -2. On behalf of both Associations we request an opportunity to have one or more of their representatives comment orally at a public hearing with respect to the proposed Regulations.

We shall proceed first with certain general comments on the proposed Regulations in so far as they relate to medical groups and then we will point out certain specific problems in the proposed Regulations. Our general comments are as follows:

1. The proposed Regulations would apply one set of standards to professional service organizations and another set of standards to other organizations. This approach is contrary to the Services prior pronouncements, is contrary to existing case law and is not warranted by any provision to be found in the Code.

The Service's position, announced in Revenue Ruling 57-546, has been that the "usual tests" would be applied to professional groups. It was followed in November 1960 when the existing Regulations under Section 7701 were issued for they treat professional groups in essentially the same manner as groups formed for other business purposes. The proposed Regulations would change the Service's approach to professional groups without giving any reason therefor.

The only three court decisions involving professional groups that have been decided to date, to-wit: Pelton v. Commissioner, 82 F. (2) 473; Kintner v. U. S., 216 F. (2) 418; and Galt v. U. S., 175 F. Supp. 360, have all held that the usual tests should apply to professional groups. The proposed Regulations would ignore the rule of law established in those cases without even trying to distinguish them.

The Code uses the words "corporation" and "association" in Section 7701. There is nothing in the Code which would justify a difference in treatment between corporations and associations depending upon the type of business activity in which they were organized to engage. Yet that is exactly what the proposed Regulations propose to do when they provide for special standards for professional service organizations. Moreover, the proposed Regulations would not apply such special standards to all professional organizations; they would apply such special standards only to professional service organizations "which, under local law, may not be organized and operated in the form of an ordinary business corporation."

We can see no basis for either such distinction. What sound policy basis can be advanced for a difference in treatment between physicians and lawyers on the one hand and others who render personal services such as insurance agents, real estate brokers, employment agencies, pharmacists, opticians, investment advisors, stock brokers, management consultants, engineers, architects, and physicists, chemists and other scientists who form an organization to perform research and development services for industry on the other hand? And how about television and other repair men, plumbers and the like? The income of groups rendering such services comes primarily from personal services and is not dependent upon capital to any particular extent. Groups rendering such services normally organize pursuant to arrangements identical to those found objectionable for physicians and lawyers in the proposed Regulations.

What sound policy basis can there be for distinguishing between two groups rendering the same service upon the basis of whether or not the state in which they organize permits them to organize and operate as an ordinary business corporation? Groups providing the services enumerated above have traditionally been free to incorporate and to be taxed as a corporation. Yet under the proposed Regulations their right to be taxed as a corporation will be tested under the new standards of Paragraph (h) if under state law they may not be organized and operated as ordinary business corporations. In most states groups

rendering one or more of such services must obtain a license before they can provide such services whether they are organized as corporations or otherwise Does this requirement of a license mean that such a group "under local law, may not be organized and operated in the form of an ordinary business corporation?" In other states local law imposes additional requirements. For example, in North Dakota a pharmacy license will not be issued to a corporation unless the majority of its stock is owned by registered pharmacists. North Dakota Century Code, Section 43-15-35. If because of provisions in local law such as the foregoing groups providing such services become subject to the proposed Regulations, they will have just as much trouble as physicians and lawyers in meeting the new standards of Paragraph (h). We are sure such groups will be most surprised to learn their traditional form of organization is under attack by the Service.

The result of making state law determine whether Paragraph (h) applies will obviously not promote uniformity of treatment of taxpayers throughout the nation. Moreover, it will constitute an open invitation to groups in every state to approach State Legislatures seeking passage of Legislation to provide that such groups may organize and operate in the form of ordinary business corporations. This some such groups will undoubtedly do whether or not it is in the best interest of their professions. We do not believe it is sound policy for the Service to adopt Regulations which would invite such action.

We, therefore, suggest that the proposed Regulations be revised to reflect traditional policy that the "usual tests" will be applied to professional groups, no matter how organized. If a group be organized as a corporation, the usual tests for corporations should be applicable. If a group be organized in some other form, the usual tests for such form should be applicable.

2. The proposed Regulations are in conflict with the existing Regulations. Paragraph (c) of Section 301.7701-1 of the existing Regulations provides in part as follows: "Local law governs in determining whether the legal relationships which have been established in the formation of an organization are such that the standards are met." Paragraph (d) to be added to Section 301.7701-1 by the proposed Regulations provides in part as follows: "Formal legal relationships created under local law will not be treated as having any importance

in determining the classification of a specialized type of organization for purposes of taxation." The result is that in some states if a medical group organizes as an unincorporated association, local law will govern and corporate status will be denied, but in other states if it organizes under a professional association or corporation act, local law will be ignored and corporate status will again be denied. This approach is not logical and cannot be justified on any known legal theory. If local law is to be given any effect, it should have the same effect no matter what form of organization is chosen.

3. The proposed Regulations would ignore the provisions of state law when classifying professional service organizations subject to Paragraph (h) for they provide that "formal legal relationships created under local law will not be treated as having any importance." That statement is certainly not accurate. State law clearly has an effect on federal consequences. The federal government admits this to be correct even with respect to professional service organizations. Less than a year ago there was filed in the Federal District Court of the Central Division for the Southern District of California in a case in which the government was attacking a medical group's eligibility to be taxed as a corporation (Civil 62-9-S), a brief on behalf of the government in which it was stated:

> "Examples of State law having an effect on Federal tax consequences could go on ad infinitum. It is apparent that the states could effect legislation which would entitle organizations, such as the plaintiff, to be an unincorporated association taxable as a corporation within the meaning of Section 7701 of the 1954 Internal Revenue Code. This very thing has been done in several states. The Court's attention is respectfully directed to Commerce Clearing House Sections 6338, 6339, and Georgia Laws 1961, page 404, where legislation has been effected by the States of Utah, Indiana, and Georgia, respectfully, among others, which would allow persons to form unincorporated associations taxable as corporations. There is no such law in California."

We would, therefore, suggest that the statement that local law is not of any importance be deleted from the proposed Regulations and that there be substituted some statement comparable to that made by the government in its brief filed in the California case.

4. The proposed Regulation would ignore the fact that a professional corporation is denominated as a corporation under state law. We submit that the Service has no authority to question the status of an organization that a state denominates as a corporation. Since the Code does not define the term "corporation," and since authority to create corporations is vested in the states, the Code must be interpreted as accepting state denomination of what is to be a corporation. Moreover, since Subchapter F is necessary in order to exempt non-profit corporations from the corporate income tax, it would appear under the usual rules of statutory construction that the word "corporation" as used in the Code includes all corporations even though state law adds some descriptive word to the term corporation such as non-profit, professional, or professional service. We believe the case of United States v. Cambridge Loan & Building Co., 278 U. S. 55, supports the foregoing conclusion for it holds that a special type of savings and loan association is a savings and loan association for federal tax purposes. We, therefore, suggest that the proposed Regulations be revised to reflect the fact that professional corporations or professional service corporations organized under state law are corporations for federal income tax purposes.

5. The proposed Regulations completely overlook the fact that there are many medical groups throughout the country which today and for many years have been taxed as corporations. The exact number is uncertain. However, a 1959 survey by the Public Health Service of the Department of Health, Education and Welfare indicates that 6% of the 1154 medical groups reporting were being taxed as corporations. (See 177 J.A.M.A. 768). Moreover, an unpublished 1961 survey by the Medical Group Management Association indicates 54 of the 280 medical groups reporting were being taxed as corporations. The motivation for forming such an organization and subjecting it to the corporate income tax was not in most cases to obtain fringe tax benefits. Rather it was to adopt a form of organization that would in fact have continuity of life. Over the years as physicians have banded together in organizations commonly called "clinics," experience has demonstrated that the partnership form of organization is not one which will induce a physician to think in terms of the organization and the necessity of preserving its existence. Experience has also demonstrated that an unincorporated association or a corporation is better designed to achieve such end. Once the end is achieved, the group naturally looks for fringe benefits to strengthen its hold on its physicians and to enable it to recruit new men. To deprive medical groups of the fringe benefit to which they have become

accustomed would have a disastrous effect upon existing clinics, might even bring about the demise of some of them and would probably discourage the formation of new medical groups. During the past 30 years medical clinics have made inestimable contributions to medicine through research and improvement of medical care. A policy designed to threaten their existence cannot be in the public interest.

We, therefore, suggest that the proposed Regulations be revised to permit such groups to maintain their current status for tax purposes.

We would next like to comment on some of the specific problems in the proposed Regulations. The following comments appear pertinent:

A. With respect to the standard of continuity of life, it is stated that generally a member of a professional service organization cannot share in its profits unless he also shares in the performance of the services rendered. This statement is not correct. It is most common for a medical group to continue to pay compensation to a physician who has become disabled or who has retired. Many law firms continue to carry their elder statesmen in an "Of Counsel" status and to compensate them though they do little or no work. We, therefore, suggest elimination of this statement from the proposed Regulations.

B. Also with respect to the standard of continuity of life it is stated that if on the death or retirement of a member of a professional service organization he or his estate is required to dispose of his interest in the organization, there is no continuity of life because the continued existence of the organization depends upon the willingness of the remaining members to acquire his interest. These statements reflect a so-called "buy and sell" arrangement which is typical in small business corporations and particularly in groups providing personal services of the types enumerated in paragraph 1 above. Such organizations normally try to protect themselves from the intrusion of undesirable minority stockholders by the use of a

"buy and sell" arrangement. If the existence of such an arrangement in a professional service organization prevents it from meeting the standard of continuity of life, we fail to see how it can be said that any organization with such an arrangement meets the standard. We, therefore, suggest that this statement should be eliminated from the proposed Regulations.

C. With respect to the standard of centralized management, it is stated that even though a measure of centralized control exists, the standard is not met if members retain "traditional professional responsibility." Because it is stated earlier that to have centralized management the managers must have authority over professional policies and procedures to be followed in handling each individual case, the proposed Regulations by use of the phrase "traditional professional responsibility" require something more than control over professional policies and procedures. If the standard of centralized management is to be used, we believe the standard should be phrased in substantially the same manner as is the test used to determine the employee status of a physician. In the ruling issued to the Colony Medical Group, Incorporated (CCH Pension Plan Guide, ¶ 12,927) the Service phrased such test as follows:

> "The practice of medicine, however, requires the exercise of almost unlimited discretion with respect to the precise manner of performance. It follows, therefore, that the emphasis in an inquiry into the 'employee' status of a physician or other professional person shifts from a consideration of supervision over, or right to supervise, the specific details of the work to an analysis of the degree of control reserved or exercised over general policies and the general standards of performance in respect to the services performed.
>
> "In view of the highly specialized and technical nature of a physician's work, actual supervision over the details of his services ordinarily is not contemplated, and, therefore, the absence of such supervision is of little significance in determining whether the employer possesses the requisite supervisory authority."

Moreover, by placing emphasis on "traditional professional responsibility," it is at least implied that neither a physician nor a lawyer may surrender the same. Such is not the case. Physicians and lawyers do become employees of other physicians and lawyers or groups thereof. When they have done so, the Service has traditionally held that they are employees for the purpose of social security taxes and withholding and has never even intimated that traditional professional responsibility might prevent them from becoming employees. If a physician or a lawyer may surrender sufficient of his "traditional professional responsibility" to become an employee for such federal tax purposes, we fail to see why he may not do the same for the purpose of permitting his employer to meet the test of centralized management.

Finally, we would point out that the nine tests for centralized management for professional service organizations could not all be met by other personal service organizations. What insurance agency would provide that an employee may not sell a policy to a person until the managers have accepted him as a client. Yet under the proposed Regulations a medical group would not have centralized management unless the managers determine the persons who will be accepted as patients. What stock brokerage office would set the brokerage fees to be charged a customer when they are established by an exchange? Yet under the proposed Regulations a medical group would not have centralized management unless the managers determine the fees to be charged by the group even when those fees are established by some third party such as Blue Shield. The difference between a carpenter's choice of a tool for a particular job and a surgeon's choice of a scalpel for a particular incision is merely a matter of degree. Yet the proposed Regulations would use this difference to justify differing tax treatment for carpenters and physicians.

We, therefore, suggest that if centralized management is to be retained as a standard it be phrased as in the quotation from the Colony Medical Group ruling referred to above.

D. With respect to limited liability it is stated that the standard is met by a professional service organization only if the personal liability of its members is no greater than that of the shareholder-employee of an ordinary business corporation. If a

shareholder-employee of an ordinary business corporation has an automobile accident while driving on corporate business and is held to have been negligent, both he and the corporation are liable for the resulting damages. However, the holder of the claim for such damages has no claim against other shareholder-employees who did not contribute to the accident. The situation with respect to professional corporations is exactly the same under the laws of at least one state - i.e. Minnesota - and, therefore, professional corporations organized under the laws of that state would appear to meet the standard of limited liability. Moreover, while the situation with respect to limited liability may not have been clear under the Minnesota Professional Corporation Act as enacted in 1961, that Act was amended in 1963 to make it clear that the liability of a shareholder-employee of a professional corporation is the same as that of a shareholder-employee of an ordinary business corporation (see Minn. Stats. Ann., Section 319.16). The inclusion of this standard in the proposed Regulations is, of course, an invitation to State Legislatures to amend their professional corporation acts as Minnesota did in 1963. We, therefore, suggest elimination of this standard of limited liability.

E. The final standard set forth in the proposed Regulations is transferability of interests. Under this heading it is stated transferability exists "only if the member without the consent of other members may transfer both the right to share in the profits of the organization and the right to an employment relationship with the organization." If a member of an organization were to be given the power to transfer his right to be employed by the organization to a complete stranger, the result would be that the organization would be unable to meet the test of centralized management because under the heading of centralized management it is stated that the same does not exist if the managers do not have the power to hire and fire. This inconsistency between the standards of centralized management and transferability of interests must be removed. Moreover, we would point out that the above quoted provision with respect to transferability of interests would apply to professional service organizations a standard more rigid than that applied to ordinary business organizations. In an ordinary business corporation a shareholder-employee cannot, when he sells his stock, transfer his right to employment unless the stock being sold constitutes more than 50% of the voting stock of the corporation, and even then he is not legally transferring his right to employment but rather his right to elect directors who will in turn select employees.

We see no basis for applying this more restricted standard to professional service organizations. Instead, we would suggest that the Regulations should provide that the existence of transferability of interests is immaterial in connection with medical groups, most of which own no capital assets and, therefore, have no real interests which might be the subject of transfer.

CONCLUSION

We realize that when the Service issued in 1960 the existing Regulations under Section 7701, it had to resolve the conflicting desires of different interests, some of which like the real estate and theatrical people did not desire to be taxed as corporations and some of which like the physicians and lawyers desired freedom to chose whether they should be taxed as corporations. When the existing Regulations were issued ignoring the desires of the physicians and lawyers, they quite naturally turned to state legislation in an attempt to achieve their ends. Today, however, there are, so far as we know, no interests asking the Service to take the position that the state statutes that have been enacted in over 30 states should not be given their intended effect. In the absence of such opposition, we believe the Service should give effect to such state statutes.

Dated January 15, 1964.

Very truly yours,

Jule M. Hannaford

JMH:GT

File put in Work File-Leg. for 89th Congress

COPY

July 21, 1964

Mr. Stanley N. Allen
Administrator
The Duluth Clinic
Duluth, Minnesota

Dear Mr. Allen:

Thank you for your letter suggesting that I consider sponsoring legislation clarifying the tax status of professional groups which incorporate. With your indulgence, I would like to postpone any definite action on this request for two principal reasons: one, I believe it would be wise to await the final regulations which will be issued by the Internal Revenue Service in this regard before initiating Congressional action. The problems which you point out have been brought to the attention of IRS and perhaps their final decision will meet the concerns which you have raised. Two, the 88th Congress is rapidly drawing to a close with only about four or five weeks remaining. A tremendous backlog of legislation exists in the Senate and it would simply not be feasible to expect Congress to take any action on the legislation at this late date. In other words, even if a bill were introduced there is little chance that any definite decisions would be possible.

I respectfully propose that we await the final decision of IRS and then, in the event that the decision does not meet your concerns, I would certainly consider preparing suitable legislation for the 89th Congress.

Please be assured of my interest and concern in this important matter.

Sincerely yours,

Hubert H. Humphrey

Allen / Allen. S.

THE DULUTH CLINIC

DULUTH, MINNESOTA

DEPARTMENT OF
ADMINISTRATION

June 29, 1964

Senator Hubert H. Humphrey
Senate Office Building
Washington, D. C.

Dear Senator Humphrey:

Thank you for sending along the letter of Mr. Maginnis of the Internal Revenue Service outlining their position in regard to proposed amendments to the Regulations on Procedure and Administration under section 7701 of the Internal Revenue Code.

You will notice a problem is referred to in Mr. Maginnis's letter which would seem to be best solved by Federal Legislation. This problem is the clarification of the tax status of professional groups which incorporate or become associations. The letter of Mr. Maginnis indicates state statutes are not uniform in scope or application to the various professions and whereas such legislation has been enacted by a majority of the states, it would seem appropriate this matter be clarified by Federal Legislation.

In this matter, doctors are seeking the same consideration in regard to income taxes which is accorded other people. Discrimination against the medical profession in this regard is obvious and from what we can learn in contacting attorneys inconsistent with legal precedent and recent decisions in the courts.

Would it be possible for you to look into this matter and originate appropriate legislation and support its passage within the Senate?

Such consideration as you might give this request will be sincerely appreciated.

Yours truly,

Stanley N. Allen,
Administrator

SNA: bjd

Assist: Allen

COPY

June 24, 1964

Mr. Stanley N. Allen
Administrator
The Duluth Clinic
Duluth, Minnesota

Dear Mr. Allen:

Enclosed is a copy of a letter I have received from the Internal Revenue Service regarding your inquiry as to the classification of professional corporations and associations for Federal tax purposes. Apparently, no final decision has been reached since the March hearings were held.

Best wishes.

Sincerely yours,

Hubert H. Humphrey

Enclosure

Assist/ Allen. S.N.

U.S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

IN REPLY REFER TO

T:P:P
R-907

JUN 22 1964

Dear Senator Humphrey:

This is in further response to your communication of May 1, 1964, enclosing a letter from Mr. Stanley N. Allen, Administrator of The Duluth Clinic at Duluth, Minnesota. Mr. Allen is concerned about the proposed amendments to the Regulations on Procedure and Administration under section 7701 of the Internal Revenue Code, relating to the classification of professional corporations and associations for Federal tax purposes.

The proposed amendments are intended to clarify present regulations in the light of recently enacted State statutes authorizing the incorporation or association of professional groups. These State statutes are not uniform in scope or application to the various professions. The amendments are intended to provide a uniform standard to be applied to all professional organizations formed under State law. These amendments set forth, in greater detail, the basic characteristics required of a professional organization in order to be considered a corporation for Federal tax purposes. The characteristics set out are those possessed by an ordinary business corporation, the most relevant of which are: continuity of life, centralized management, limited liability, and free transferability of interest. The existing regulations and the proposed amendments thereto require that a professional corporation or association have a majority of these characteristics for classification as a corporation for Federal tax purposes.

The amendments are not designed to deny corporate treatment for Federal tax purposes to professional corporations formed under the recently enacted State statutes, but rather to require such an organization to be a corporation in substance as well as in form. The professional organization must be more in the nature of a corporation than a partnership.

Public hearings on the proposed amendments were held on March 4, 5, and 6, 1964, at which seventy-five persons presented oral comments. These comments, together with all other comments and suggestions received, are now being thoroughly studied before any final decision is made.

Your interest in this matter is appreciated. The letter from Mr. Allen is returned as requested.

Sincerely yours,

Paul T. Maginnis

Acting Director, Technical Planning Division

Honorable Hubert H. Humphrey
United States Senate
Washington, D. C.

Enclosures - 2

Assist: Allen

COPY

May 1, 1964

Mr. Stanley N. Allen
Administrator
The Duluth Clinic
Duluth, Minnesota

Dear Mr. Allen:

Many thanks for your most recent letter. I will check with the Internal Revenue Service to see what, if anything, has been done regarding the regulations involving professional corporations.

I have made the appropriate change in your address for the newsletter.

Best wishes.

Sincerely yours,

Hubert H. Humphrey

Assist: Allen

May 1, 1964 COPY

Letter from: Stanley N. Allen
The Duluth Clinic
Duluth, Minnesota

Congressional Liaison Office
Internal Revenue Service
Department of the Treasury
Washington, D. C.

Hubert H. Humphrey

HHH7d

U.S. TREASURY DEPARTMENT
INTERNAL REVENUE SERVICE
WASHINGTON, D.C. 20224

MAY 8 1964

IN REPLY REFER TO
T:S:Rf

Dear Senator Humphrey:

This is to acknowledge your May 1 memorandum, and enclosure, in behalf of Mr. Stanley N. Allen of Duluth, concerning the proposed regulations relating to the Federal tax classification of certain professional groups.

You will be further advised in the matter as soon as possible.

Sincerely yours,

T. S. O'Connell

Chief,
Technical Reference Branch

Honorable Hubert H. Humphrey
United States Senate
Washington, D. C.

MAY 8 1964

T:S:Rf

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(signed) A. L. O'Connell

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United States Senate
Washington, D. C.

Copy attached

THE DULUTH CLINIC

DULUTH, MINNESOTA

DEPARTMENT OF
ADMINISTRATION

April 28, 1964

Senator Hubert Humphrey
Senate Office Building
Washington, D. C.

Dear Senator:

Please change your address files for your periodic newsletter to provide me with a copy at this time instead of the old address which was 401 - 15th Street South, Lenont-Peterson Clinic, Virginia, Minnesota. A copy of the old address is enclosed.

Done TA

I can appreciate that your office is fully engaged at this time in efforts in support of the Civil Rights Legislation but hope attention will continue to be given to the matter of Internal Revenue Service action last December regarding proposed discriminatory regulations involving professional corporations.

IRS pls reply

At this time the position of the Internal Revenue Service is not clear to us in regard to this question, although current opinion seems doubtful that hearings on this question held in March served to change these prospective rulings.

Your attention to this matter which is also of importance to us will be appreciated.

Yours truly,

Stanley N. Allen,
Administrator

SNA: bjm
Enclosure

DSG

DEMOCRATIC STUDY GROUP, U. S. HOUSE OF REPRESENTATIVES

347-9861
CA 4-3121
Ext. 4868
5858

Room 504 - HOUSE OFFICE BUILDING - WASHINGTON 25, D. C.

John Stewart

February 17, 1965

Wm
Phillips

Dear Fellow Democrat:

Enclosed are the first in the series of DSG Fact Sheets for the 89th Congress. You will note that the issue numbering system has been changed over that used in previous years. The first sheet summarizes the action taken by the 87th and 88th Congresses (1961-1964) in the subject area. This will take the place of the more detailed Fact Sheets on these measures, issued during the past 4 years. A new subject index guide is also enclosed.

The 1965 Fact Sheets will continue to provide, in detail, the legislative action taken on major Administration bills. The new issue numbering system is attached. Issues #1 through #13 are domestic policy issues; #14 through #16 are issues involving foreign policy.

We would appreciate any comments you may have as how we may improve this service.

Sincerely,

Bill

William G. Phillips
Staff Director

28

1965-66 DSG FACT SHEET SUBJECT INDEX

(The DSG Fact Sheet numbering system has been revised from that used used in previous Congresses. Each of the major subject headings used below will include a brief summary of Congressional action during the 87th and 88th Congresses (1961-64) so that you may use them independently of the Fact Sheets issued in previous years. You may wish to start a new looseleaf notebook with the Fact Sheets issued this Congress. Note that numbers 1 through 13 are domestic issues, while numbers 14 on deal with foreign policy issues.)

FACT SHEET NO.	TITLE
1	HEALTH
2	SOCIAL SECURITY, WELFARE, MEDICARE
3	EDUCATION
4	URBAN AFFAIRS, HOUSING, TRANSPORTATION
5	AGRICULTURE
6	DISTRESSED AREAS, ANTI-POVERTY
7	UNEMPLOYMENT
8	LABOR, MINIMUM WAGES
9	CIVIL LIBERTIES
10	ECONOMIC GROWTH
11	TAXATION, SPENDING
12	CONSERVATION
13	POLLUTION
14	IMMIGRATION
15	FOREIGN POLICY
16	MUTUAL SECURITY, FOREIGN AID

EDUCATION

DEMOCRATIC ACCOMPLISHMENTS, 1961-1964 (87th, 88th Congresses)

The Higher Education Facilities Act of 1963 provides $1.2 billion for the first 3 years of a 5-year program of loans and grants for construction of academic facilities at graduate schools, 4-year colleges, 2-year community colleges and public technical schools. (P.L. 88-204)

The Health Professions Education Act of 1963 authorizes $175 million for a 3-year program of construction grants for medical and dental school teaching facilities and $30.7 million for student loans to medical, dental and osteopathic students. Training facilities for nurses, optometrists, pharmacists, podiatrists, and public health personnel are also eligible for construction grants. (P.L. 88-129)

The 88th Congress expanded and modernized the Vocational Education Act for the first time since its enactment in 1946. $731 million was authorized for expansion of vocational education programs enabling more individuals to meet the demands for newer and greater skills necessitated by advancing technology. Funds were included for the establishment of residential vocational schools for youths in urban areas and for work-study programs providing part-time work and full time vocational training. (P.L. 88-210)

The National Defense Education Act was amended and extended in 1961 (P.L. 87-344), in 1963 (P.L. 88-210), and in 1964 (P.L. 88-665). Late in 1964 Congress voted to extend the program through June 30, 1968, substantially broadening the scope of the NDEA through an expanded and liberalized student loan program; doubling of graduate fellowships; expansion of equipment purchase and teacher training programs to include subjects of English, history, geography, reading, civics, as well as science, mathematics and modern foreign language.

The Library Services Act of 1964 increased the authorization for Federal aid to develop library services in urban and rural areas from $7.5 million to $25 million annually. It also inaugurated a new program of assistance for public library construction with an annual authorization of $20 million. (P.L. 88-269)

Impacted Areas Aid, which since 1961 has provided $1 billion for construction and operation of schools crowded by 11 million children of Federal employees, has been extended through June 30, 1966. (Public Laws 87-344; 88-210; 88-665).

A 5-year program of grants to help establish non-commercial educational television stations was approved in 1962. (P.L. 87-447)

Elementary and Secondary Education Act of 1965

Administration's Recommendations

The Administration's elementary and secondary school bill was introduced Jan. 12, 1965, by Rep. Adam C. Powell (D-N.Y.), H.R. 2361, and Rep. Carl Perkins (D-Ky.), H.R. 2362, and by Senator Wayne Morse (D. Ore.), S. 370. Although not included in the President's Jan. 12 Message on Education, Rep. Powell's bill contains a provisinn for the establishment of a Cabinet-level Department of Education.

The legislation authorizes a total of $1.255 billion for Fiscal Year 1966 for assistance to elementary and secondary education. In addition to this legislation the Administration requested $150 million for pre-school children through the War on Poverty Program and $250 million for aid to higher education.

The major portion of the Administration's elementary and secondary school program calls for immediate investment of $1 billion to improve the education of poverty-stricken children. The President also requested a grant program to help purchase school library books and materials, and textbooks to be made available to public and private school children; establishment of supplementary education centers to be shared by public and private school students in a community; expansion of educational research and training programs through the Cooperative Research Act of 1954; and a program of grants to strengthen State educational agencies to help them meet their new responsibilities under the over-all program to improve the quality of elementary and secondary education. (See CONG. REC. 1/12/65, p. 587, for breakdown of estimated Federal expenditures by state)

Provisions of the Administration's Elementary and Secondary Education Act of 1965

I. Children from Low-Income Families - $1 billion to States for 1st year of 3-year grant program to improve quality of education in schools serving children from low-income families (less than $2,000 annual income.).

A. Eligibility: Any public school district with 100 students from low-income families or with at least 3% of its students from low-income families is eligible. This includes 85-90% of all public school districts in U.S.

B. Distribution of Funds:

1. Formula: for each child from low-income family, Federal Government will pay amount equal to one-half average per-pupil expenditure in State.

2. Funds allotted to State educational agency for distribution to local school districts upon submission and approval of plans for special programs for deprived children.

C. Use of Funds:

1. Funds may be used for teacher salaries and minimum classroom construction if necessary to meet needs of deprived children, but essentially must be spent on special educational services for disadvantaged children, as remedial reading; educational radio and TV; preschool and after school programs; mobile science labs, etc.

2. Special educational services must be open to all children within the district who are in need of such services.

D. Beneficiaries: The program will improve the entire educational system but is directly aimed at the 5 million poverty-stricken children attending elementary and secondary schools in 95% of U.S. counties.

II. School Library Books and Textbooks - $100 million annually for 5-year program of grants to States for purchase of school library books, library materials and textbooks available to all children attending public and private nonprofit elementary and secondary schools.

A. Approximately 15% of books will be for use by private school children; they will be the same as those books used or approved for use in public schools.

B. Funds will be allotted to the 50 States on basis of total elementary and secondary school enrollment.

III. Supplementary Educational Centers - $100 million for 1st year of 5-year program to establish supplementary educational centers within communities to provide special educational services to public and private school children; adults; out-of-school children.

A. Services may include special courses in science, language, art, music, etc; programs for mentally retarded or handicapped; special instruction for economically deprived and for gifted child; guidance counseling; remedial instruction; school health and social work services.

B. Public and private schools and community service organizations will cooperate within each community to plan and administer programs for centers. Services provided will be adapted to meet local needs.

C. Funds: Each State will receive initial $200,000. Remainder distributed on basis of number of school age children and total population of State.

IV. Regional Educational Laboratories - $45 million for establishment of regional educational laboratories to train teachers and to research, develop, disseminate and implement new knowledge in field of education.

Legislation will amend Cooperative Research Act of 1954, which provides $16 million in FY 1965 for educational research and training. Under the 1954 Act, 4 pilot research centers were established. The additional $45 million in FY 1966 will provide for construction and operation of new permanent educational research and training centers.

V. State Educational Agencies - $10 million for 1st year of 5-year grant program to strengthen State educational agencies through State programs which may include long-range planning; training of educational personnel; consultative and technical assistance to local schools; expansion of educational research.

A. Funds: $100,000 to each of the 50 States with remainder distributed on basis of school population; 15% of funds will be reserved for special grants to help solve educational problems common to all or several of the State educational agencies.

Higher Education Act of 1965

The Administration's higher education bill was introduced Jan. 19, 1965, by Rep. Adam C. Powell (D. N.Y.), H.R. 3220, and Rep. Edith Green (D. Ore.), H.R. 3221, and by Senator Wayne Morse (D. Ore.), S. 600.

The legislation provides a 5-year program of assistance to higher education with a 1st-year authorization of $250 million. The major portion of funds, $130 million, is for assistance to needy students through an undergraduate scholarship program; insured, reduced-interest private loans to graduate and undergraduate students; expansion of work-study program providing part-time employment; and expansion of the National Defense Student Loan program.

Other Titles of the bill authorize $65 million to improve college libraries and to train students in librarianship; $25 million for university extension and continuing adult education courses dealing with urban problems; and $30 million to improve the educational quality of small developing colleges. (See CONG. REC., 1/19/65, p. 873, for breakdown of estimated Federal expenditures by State.)

* ** * * * * * * * * * *

Provisions of Administration's Higher Education Act of 1965:
(Authorization shown is for Fiscal Year 1966)

I. University Extension and Continuing Adult Education - $25 million.
$25 million in grants to support university extension and continuing adult education programs concentrating on urban problems as housing, poverty, land use, transportation. $100,000 to each State with remainder distributed on population basis; 20% of funds reserved for experimental projects.

II. College Library Assistance and Library Training and Research - $65 million.

A. $50 million in grants to colleges for purchase of books and other library materials. Applying institution may receive basic maximum grant of $5,000; supplemental grants, not to exceed $10 for each full-time student, available.

B. $15 million in grants to higher education institutions for training students in librarianship.

III. Assistance to Small Colleges - $30 million.
$30 million in grants to assist small colleges raise academic quality through establishment of cooperative relationships with universities and other colleges. Cooperative projects might include faculty or student exchange; joint use of library or laboratory facilities; faculty improvement programs; National Teaching Fellowships to encourage graduate students and faculty members to teach at small developing colleges.

IV. Student Assistance - $130 million.

A. Undergraduate Scholarships - $70 million.
$70 million in grants to enable 140,000 qualified high school graduates from low-income families to continue education at institutions of higher learning.
1. Grants of up to $800 per academic year will be available to needy students through eligible higher education institutions.

2. Student may receive Federal scholarship on annual basis for up to 4 years while pursuing a full-time undergraduate course at an eligible institution.
3. Student recipient may receive other financial support. Amount of Federal scholarship to be determined by institution.
4. Eligible institutions must make sincere efforts to identify qualified youths from low-income families and encourage them to continue their education.

B. Insured, Reduced-Interest Loans - $15 million.

1. To assure greater availability of private credit on reasonable terms to students, establishment of a Student Loan Insurance Fund is proposed to enable the Government to insure eligible lenders against loss on loans made by them to students attending eligible institutions who do not have reasonable access to similar loan program.
2. Provides Federal government pay portion of interest (up to 2% of the 6% interest usually charged) on such loans and on certain loans insured under a State program or by nonprofit private organization or institution.
3. The total principal amount of new loans to students covered by insurance would not exceed $700 million in FY 1966, $1 billion in FY 1967, $1.4 billion each in FY 1968 - FY 1970.
4. For further details on insured loan program and reduced-interest loans see Cong. Rec., 1/19/65, pp. 869-872.

C. Work-Study Program - $129 million (including $84 million included in Office of Economic Opportunity Budget).

The Work-Study Program authorized by the Economic Opportunity Act of 1964 (P.L. 88-452) provides part-time employment (up to 15 hours a week) for needy students attending higher education institutions to enable them to continue their education. Employment programs are operated by the institution or public or private nonprofit agencies with the Federal government contributing 90% of wages earned by students.

The Administration proposed the work-study program be transferred from the Office of Economic Opportunity to the Office of Education and the program be expanded for students from low-income families and extended to students from middle-income families. Extends through June 30, 1967, period during which Federal government pays 90% of wages; drops to 75% thereafter.

D. National Defense Education Act

Extends Student Loan program of the National Defense Education Act for 3 years with following authorizations:
$225 million for Fiscal Year 1969
$250 million for Fiscal Year 1970
$275 million for Fiscal Year 1971.

Fact Sheet 2 - Social Security, Medicare, Public Welfare

SOCIAL SECURITY - PUBLIC WELFARE

DEMOCRATIC ACCOMPLISHMENTS, 1961-1964 (87th, 88th Congresses)

The Social Security Program, which provides benefits to 20 million persons, was broadened in 1961 to provide new or increased benefits to 5.2 million persons (P.L. 87-64). The 1961 amendments increased minimum monthly benefit from $33 to $40; lowered retirement benefits age for men to 62; increased widows' benefits; liberalized eligibility requirements and ceiling on retirement earnings.

The 87th Congress enacted the first major overhaul in the public welfare program since the 1930's shifting emphasis of programs toward rehabilitation of the needy rather than prolonged dependency. The 1962 amendments increased Federal funds for aged, blind, disabled; child welfare services; rehabilitation services; and liberalized aid to dependent children program.(P.L. 87-543).

The Aid to Dependent Children program, enacted on a 14-month basis in 1961 (P.L. 87-31) and extended for 5 years in 1962 (P.L. 87-543), permits public assistance payments to families of unemployed workers with dependent children.

Congress in 1961 enacted temporary legislation extending unemployment benefits up to an additional 13 weeks for the long-term jobless who had exhausted their benefits without finding work. This provided an unemployed worker with benefits up to a total of 39 weeks (P.L. 87-6).

MEDICAL CARE FOR THE AGED

For the third successive Congress, the King-Anderson bill providing health insurance for the aged financed through the social security system has been introduced (S.1; H.R. 1). It closely resembles the Administration-supported plan which was approved by the Senate Sept. 2, 1964 by a 49-44 vote, only to die in conference in the closing days of the 88th Congress. It is based on the social insurance principle of payroll contributions during the working years to help provide protection after age 65.

THE URGENT PROBLEM

*** Our aged population consists of more than 18 million persons age 65 and over. By 1970, we will have 20 million senior citizens and 25 million by 1975.

*** Four out of five aged have a chronic ailment.

*** After age 65, 90% are hospitalized at least once; 66% are hospitalized two or more times.

*** Average hospitalized person over 65 stays twice as long (15 days) as younger person.

*** One-half of aged couples where one is hospitalized at some time during the year have total medical bills over $800 in one year.

*** 54% of aged have no hospitalization insurance, and many with insurance have inadequate coverage. Two-thirds of aged with incomes less than $2,000 have no hospital insurance.

*** Aged have small incomes and little savings; 55% of persons over 65 have less than $1,000 annual cash income; 78% have less than $3,000. One-half of aged have less than $1,000 in liquid assets.

ADMINISTRATION'S PROPOSAL (H. R. 1; S. 1)

I. Hospital Insurance for the Aged

A. Eligibles: All persons age 65 and over; includes 16,660,000 under social security or railroad retirement; 2,000,000 others (cost to be paid from general revenues)

B. Benefits:

1. Hospital Inpatient Services - 60 days with deductible equal to average cost of 1 day's care (about $40).
2. Post-Hospital Care - 60 days care following transfer from hospital in facility having agreement with hospital.
3. Home Health Services - (as visiting nurse) up to 240 visits a year.
4. Outpatient Hospital Diagnostic Services - (as X-Ray; lab services) available as required with deductible in any one month equal to one-half deductible for inpatient hospital services (about $20).

C. Financing: The program will be administered through the Social Security System and financed by a completely separate Hospital Insurance Trust Fund.

1. An earmarked allocation from the social security contribution will be made to the separate hospital insurance fund.
   During 1967-68 - .38 of 1% of employee's earnings. Same for employer. .57% for self-employed.
   During 1969 and after - .45 of 1% of employee's earnings. Same for employer. For self-employed .675%.

F.S. 2

2. Maximum annual earnings on which social security taxes and benefits are computed will be increased from $4800 to $5600 a year, effective Jan. 1, 1966.
3. Social Security contribution schedule (combined for Social Security and hospital benefits) will be changed as follows:

Year	Employer	Employee	Self-Employed
1965 (present)	3.6%	3.6%	5.4%
1966-67	4.25%	4.25%	6.4%
1968-70	5.0%	5.0%	7.5%
1971 and after	5.2%	5.2%	7.8%

4. General revenues will be used to provide health insurance for the 2 million aged not under Social Security or Railroad Retirement.
5. Actuarial soundness of the current proposal is demonstrated in "The Status of the Social Security Program and Recommendations for Its Improvement," the 1965 report of the Advisory Council on Social Security.

D. Complementary Private Insurance:
Exempts from anti-trust laws private insurance companies who pool their resources to provide, on non-profit basis, approved low-cost health insurance to the elderly for health costs not covered under the social security plan (doctor, surgeon bills, etc.).

II. Social Security Amendments

A. Provides 7% increase to the 20 million social security beneficiaries equal to about $1.3 billion a year. Benefit increases would be paid retroactive to Jan. 1, 1965. Minimum primary monthly benefit will be increased from $40 to $42.80; maximum from $127 to $135.90. Average primary benefit which is currently about $77.50 will be increased to $83. When taxable base increased Jan. 1, 1966 maximum primary benefit will go to $149.90; maximum primary benefit will go to $149.90; maximum family benefit from $254 to $312.

B. Covers Self-employed physicians and persons whose earnings include tips.

III. Public Welfare Amendments

A. Effective January 1966 Federal share under all State public assistance programs will be increased about $2.50 a month for needy aged, blind, disabled; about $1.25 for needy children. Cost: Jan.-June 1966--$75 million.

B. Authorizes Federal funds to States for needy aged in mental and tuberculosis institutions. Cost: Jan.-June 1966--$38 million.

C. Increases slightly amount of earned income needy aged may receive and remain eligible for benefits. Cost: $500,000 for FY 1966.

D. Makes minor amendment to Kerr-Mills program for medically needy aged. Cost: $1 million for FY 1966.

HEALTH

Democratic Accomplishments 1961-1964 (87th, 88th Congresses)

Community Health Services and Facilities Act of 1961 (P.L. 87-395) doubled funds for nursing home construction and expanded and improved public services for aged and chronically ill.

Drug Industry Act of 1962 (P.L. 87-781) protects American consumer from unsafe and ineffective drugs by providing FDA legal authority to assure safe and effective drugs.

Vaccination Assistance Act of 1962 (P.L. 87-868) allows grants to State and local Governments to carry out an intensive vaccination program to help protect population, particularly pre-school children, against four contagious diseases - polio, diphtheria, whooping cough, tetanus.

Mental Health Program enacted in 1963 authorizes $329 million over 4 years to fight our largest health problem - mental illness and retardation. Funds are provided for construction of centers for research into causes of mental retardation and treatment facilities; for construction of community centers for care and treatment of mental patients; for training teachers for mentally retarded and handicapped children (P.L. 88-164)

Mills-Ribicoff bill of 1963 (P.L.88-156) strengthened maternal and child health and crippled children services and initiated a new program of comprehensive maternity and infant care aimed directly at preventing mental retardation.

Health Professions Education Assistance Act of 1963 (P.L. 88-129) will substantially increase our supply of professional health personnel through student loans for medical, dental and osteopathic students; provides $175 million through Fiscal 1966, in construction grants for medical and dental school facilities.

Hill-Burton Act extension of 1964 (P.L. 88-443) authorizes $1.4 billion over 5 years for construction and modernization of hospitals and other health facilities with grester emphasis on modernization of hospitals in urban areas.

Professional Nurse Training Act of 1964 (P.L. 88-581) authorizes a 5-year, $287.6 million program for training 130,000 additional nurses. Funds are provided for construction and rehabilitation of nursing schools, for expansion and improvement of nurse training programs, and a student loan program for nurses.

Need for Broad Attack on Nation's Health Problems.

*** 1 in 5 children, under age 17, if afflicted with a chronic ailment.
*** 4 million children are emotionally distrubed.
*** 5.5 million Americans are mentally retarded with 126,000 new cases yearly; more than 2 million are children.
*** By 1975 we will need 346,000 physicians compared to the 290,000 we presently have.
*** Our goal is to rehabilitate at least 200,000 persons yearly. Presently only 120,000 disabled persons are rehabilitated yearly.
*** 48 million people now living will become victims of cancer.
*** 15 million people have heart disease.
*** Heart disease and stroke cause more than half the deaths in the U.S. each year.

Administration's Recommendations

President Johnson, Jan. 7, 1965, proposed to Congress a comprehensive national health program including medical care for the aged financed through Social Security (see Fact Sheet 2); establishment of regional medical centers throughout the country to combat heart disease, stroke, cancer and other major illness; staffing funds for community mental health centers; improved health services for needy children; more effective drug control measures; and additional scholarships for medical and dental students.

It is estimated the program will involve government expenditures of $800 million for its first year of full operation (expected to be Fiscal Year 1967). A brief summary of the Administration's proposals follows. Cost figure given is estimated for first year of full operation.

A. Major Illness - Establishment of 32 regional medical centers to combat heart disease, stroke, cancer and other major illnesses. Centers will be affiliated with medical schools and centers and teaching hospitals and will provide the most advanced diagnosis and treatment for patients coordinated with research and teaching. $1.2 billion over 6 years.

B. Mental Health - 5-year program of grants to staff community mental health centers which offer comprehensive care and treatment of mental patients. $43.6 million

- 2-year extension of mental retardation program development grants enabling States and communities to draft comprehensive plans for the prevention and care of the mentally ill. $3 million

C. Children - Expansion of maternal and child health and crippled children's services including health screening and diagnosis, treatment and followup care for pre-school and school children. $320 million

D. Medical Students - Federal grants to help cover operational costs of medical and dental schools enabling such schools to expand and improve quality of education. Federal scholarships for needy medical and dental students. $43.2 million

E. Consumer - Tighter controls on production and distribution of habit-forming drugs as barbiturates; adequate labeling of hazardous products; premarket examination of cosmetics and therapuetic devices; authority to seize counterfeit drugs.

F. Health Manpower - HEW Secretary to develop long-range health manpower program.

G. Rehabilitation - Expansion of rehabilitation programs will accomodate 25,000 additional persons yearly. $87 million.

H. Group Practice - Loan and loan guarantee program to encourage and assist doctors in group practice. Federal loan assistance proposed for constructing and equipping facilities for comprehensive group practice. $10 million.

I. Health Research - 5-year extension and expansion of health research facilities act due to expire June 30, 1966. $110 million.

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1/11/65

IMMIGRATION

Background

U.S. immigration policy is currently governed by the 1952 McCarran-Walter Act which revised and continued the national origin quota system established by the Immigration Act of 1924. The national origins system is based on a formula which sets immigration from any quota area at one-sixth of 1% of the persons of that national origin who were in the U.S. in 1920. The 1952 Act set a ceiling of 2,000 on immigration from the "Asia-Pacific Triangle".

The system heavily favors Northern Europeans who rarely fill their quota and severely limits immigration from Southern and Eastern Europe, Africa, and Asia where there are lengthy waiting lists. Over 90% of the total immigration quota is reserved for European countries. Due to its inflexibility McCarran-Walter actually governs only about one-third of total annual immigration to the U.S. as the majority of immigrants enter under private immigration legislation.

Administration Recommendations

In his Jan. 13th Immigration Message President Johnson requested legislation which over a 5-year period would abolish the discriminatory national origins quota system. Under the legislation the total annual quota would increase slightly from current level of 158,361 to an estimated 166,000. The Administration's bill was introduced in the House by Cong. Emanuel Celler (D-NY), H.R. 2580, and in the Senate by Sen. Philip Hart (D. Mich.), S.500. The legislation is almost identical to that requested by the Kennedy Administration in 1963. Lengthy hearings were held on the proposals in 1964 but no final action was taken.

Provisions of Administration's Immigration and Nationality Act as introduced:

1. Current immigration quota of each country will be reduced by one-fifth annually for 5 years with eliminated origins quota numbers placed in over-all quota pool.
2. New quotas will be allocated based not on national origin but on first come, first served basis, as follows:
   a. 50% of total to persons with exceptional skills, training or education who would be advantageous to the U.S.
   b. 30% to unmarried sons and daughters of U.S. citizens not eligible for non-quota status because they are over 21.
   c. 20% to spouses and children of aliens lawfully admitted for permanent residence.
   d. Any unused portion to relatives of U.S. citizens and aliens and to special classes of workers.
3. After 4 years, limits to 10% of overall quota number of immigrants from any one country.
4. Provides that up to 30% of quota pool may be used, at the President's discretion, to admit those disadvantaged by new law (Western Europeans) and for allocation in national security interest of U.S.
5. Provides that up to 10% of quota pool may be used, at the President's discretion, to admit political refugees and refugees from catastrophe.
6. Spouses, children and parents of U.S. citizens will have non-quota status.

[Feb 5]

Jill - Education

To John Stewart

From Chuck Phillips

Enclosed is: A copy of HEW testimony on S 974 (amendments to MDTA), and same as our testimony on HR 4257--companion bill.

A draft summary for Keppel to intruduce testimony. Circumstances did not permit him to use this. It therefore has "speech material" in it, if the V.P. talks on this subject as a phase of some poverty speech.

Some statistics on MDTA.

The 3rd Annual Report of the Sec. HEW is due by April 1. It looks at this point as if I will do that, and if so, I'll send one on pronto to add to this file. It should be more complete in detail.

Anyhow--for what it is worth, and if you have a file going on various components of the anti-poverty, anti-unemployment measures, here is last week's work.

The enclosed is more informative than Wirtz' submitted testimony although in Senate hearings, he was drawn out substantially. However these will not be available for another month or so, and if the VP is speaking in the meantime, you can trust this.

summary Francis Keppel

Draft Statement: For ~~Ivan Nestingen~~ to introduce testimony on HR 4257--an Act to amend the Manpower Development and Training Act. Testimony February 5, 10:00 a.m. Select Subcommittee on Education and Labor, House of Representatives.

Mr. Chairman and Members of the Committee:

I welcome the opportunity to appear before this committee on behalf of Secretary Anthony J. Celebrezze, and to discuss with you amendments which the President has proposed to the Manpower Development and Training Act.

Printed copies of the testimony have been provided for the benefit of the members of the committee. I respectfully suggest that rather than my reading the whole of the testimony, I summarize its main points briefly while submitting the whole for the record, and remaining at your service to answer questions of the committee.

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The Department of Health, Education and Welfare believes that the Manpower Development and Training Act has been a substantial success. Manpower training has taken unemployed--and indeed some who were tabbed as unemployable youth--and fitted them both for and into productive employment in society. The underemployed have had skills upgraded and been enabled to obtain better positions. Older workers whose skills have

been displaced by automation and technology have been trained for the new kinds of jobs our society is creating. The question is no longer can we do this. We are doing it.

When the Congress originally enacted this legislation in 1962, it was committing an act of faith. The need may have been obvious that the unemployed needed help, but there were no real precedents for how to meet that need in the rapidly evolving modern economy. Your faith has been redeemed by experience however. We know how to do the job. We are still improving our capacity for it, but we do this rationally beyond the crude experiments of trial and error.

The Manpower Development and Training Act has been proved to be sound. What it needs now is to be assured of longevity and stability. The two principal ways to achieve this are to give the legislation permanence and to give it the same kind of federal support that other federal services to the States have--particularly those in the poverty area.

The Manpower Development and Training Act fills a unique role in the whole vocational educational structure. Its allowances permit it to serve the needs of heads of households and families. This legislation should have a comparable permanence to what the Congress has wisely provided in the Vocational Act of 1963. Our needs for manpower training and retraining are not going to diminish--they are going to increase.

At the same time this legislation should be a helf to the States, not a burden on them. The Manpower programs are

for people where they are--in States and municipalities. State and municipal leadership is vital to their success. This will always be so. The States have limited resources however and these have been strained severely since World War II to meet the demands in services for more than 50 million new people who now dwell among us. The federal government should not offer help that is really a form of strain on already overburdened State and municipal economies. And it would be cruel to permit established, tested and proven programs to peter out and die in places where they are needed most. This would be an especially bitter irony when through the years the cost of the program will be repaid many times over in new tax revenues and reduced welfare costs. At the least, the federal financing terms should be on the 90/10 basis of the Economic Opportunity Act.

In the testimony I have submitted, I have supplied the facts and figures which establish the case for the success of the Act and for the need to continue it. This cold calibration of measurement is necessary, of course. Yet, I hope we do not lose sight of people in the maze of our statistics. We are conserving a human capital as well as a monetary one, and basically that is most important.

I wish I could take you to visit a training project, or particularly to attend some of the graduation exercises in them.

You will find the locations of projects in junior colleges and in converted store-front offices; in trade and high schools but also in a semi-condemned parochial school building here or an old hospital clinic there. Improvisation, ingenuity and simple necessity have found facilities for use in arming the poor with the education and skill necessary in their personal war on poverty. Education and training may not guarantee a job, but one does not get or hold a job without them.

At graduation time especially, but long before it in many programs, one can observe the birth of hope out of what had been the ashes of despair. It is more than a fallacy--it is a gross libel--that the poor are in their plight as a result of indolence, shiftlessness, lack of ambition or desire for a self-respecting and self-sustaining role in life. The revolution in the economic roles in society has been so rapid that some have fallen behind in keeping up. An affluent society has resulted from our marvelous growth in technology, but some persons through lack of skill, have slipped through the cracks of that society. Ignorance has perpetuated ignorance, and the deprived have bred the environment of deprivation in their children. It is a classic case of the misfortunes of the fathers being visited upon the children.

This self-perpetuating pattern can be broken. It is compounded of ignorance, poor mental or physical health,

broken home life, repeated failure at school and in finding or keeping jobs, and other difficulties. The Manpower training programs attended have showed these people how to cope successfully with their environment and how to overcome their shortcomings. I wish you could see on their faces and hear them tell you with their lips, how anxious and grateful they are for the help.

We are providing here the genuine welfare of the opportunity for self-reliance. This is a new form of implementing the old American ideal, and a new way of recovering the old neighborliness when people helped each other.

In his State of the Union message, President Johnson told us that the first test of a Great Society is the quality of its people. He proposed as the first item on the agenda of creating that society, that we begin a program of education to insure every American child the fullest development of his mind and skills. A great assist will come to this if the homes in which they are raised are headed by a breadwinner who can find work.

The President called on us to make further effort to provide our workers with the skills demanded by modern technology. He noted that the laboring man is an indispensable force in the American system.

In his First Inaugural Address on January 20, President Johnson spoke from thirty years of experience that knows that

the injustices of poverty and the wastage of our resources will not be conquered easily. But yet he held the challenge before us that "before this generation of Americans is finished, this enemy will not only retreat--it will be conquered."

It is a stern challenge. In any era before our own and in any land other than our own, it would seem impossible.

But we do know how. The Manpower Development and Training Act is one of our solid bits of knowledge. It is only one weapon in the arsenal of the war against poverty, but it is essential.

It is imperative that we guarantee its continuity and perfect its capability.

For Release Upon Delivery

Statement By
Francis Keppel, Commissioner of Education
U.S. DEPARTMENT OF HEALTH, EDUCATION AND WELFARE

Before The
Subcommittee on Employment and Manpower
of the
Committee on Labor and Public Welfare
United States Senate
Tuesday, February 9, 1965
10:00 a.m., EST

Mr. Chairman and Members of the Committee:

I welcome the opportunity to appear before this committee on behalf of Secretary Anthony J. Celebrezze, and to discuss with you amendments which the President has proposed to the Manpower Development and Training Act.

First, I want to give a brief summary of the progress of the Manpower Training Program. The annual reports on the administration of the Manpower Development and Training Act are required by law of the Secretaries of Labor and Health, Education, and Welfare by April 1 of each year. While these reports will, therefore, appear soon, it is nevertheless in order here to suggest the conclusions of experience before discussing the proposed amendments which that experience urges.

The Manpower Development and Training Act of 1962 was enacted in a belief in its need and in a hope for its success. Since there were no real precedents for it however,

it was necessary to wait and see if the Act would serve its intentions well. Now after two and one-half years of experience, and with the original Act adjusted by the amendments of 1963, we have a confidence that this legislation is sound. The Manpower Development and Training Act is serving well. With this legislation we are providing thousands of unemployed American citizens with the means to obtain employment. A job is a citizen's passport to self-respect and dignity. An employed citizenry is vital to our national economic strength and freedom.

Substantial Progress

The Manpower Development and Training Act has achieved a substantial degree of progress. The cumulative statistics, as of January 26, 1965, reveal that 305,000 trainees had been approved for institutional training projects.

By the end of January 1965, approximately 85,000 trainees had been graduated from Manpower Development and Training programs. The placement rate has been 73%, and 90% of placements were made in jobs for which the individual was trained. We believe this is a commendable record.

In the earlier stages of the program we "skimmed the cream", as it were, -- training some individuals who were easier to serve. But now as we are plunging into the harder core cases of the unemployed and underemployed -- we may have to accept

for a time a lower rate of placement success. By harder core I mean persons not only without a job, but whose lives have been so lacking in advantages that they are poorly prepared to train for one. We must assume this risk and cope with it.

Typical Trainees

Gross statistics, however useful, do not convey any sense of the human dimension of the program, or its variety and drama. It is difficult in figures to extract a picture of a typical trainee.

A bare majority of those enrolled in institutional training during 1964 were white, male, high school graduates. In this group the average trainee was the head of a household who was between 25 and 34 years of age, and had at least one person dependent on him for support. He had been unemployed for more than five weeks. The training he received prepared him for a job for which he could not otherwise qualify.

There is probably no typical trainee. Forty-one percent of those who have been enrolled under the Manpower Development and Training Act were women. Twenty-nine percent have been non-white, and of those more than 90% were Negro. Forty-five percent had not graduated from high school. This includes five percent who had not finished grade school. More than one-third of the enrollees had been unemployed for more than 6 months -- three times as many as in the labor force as a whole.

Many enrollees had been receiving benefits from other public agencies. Approximately 20 percent had claimed unemployment insurance and 9% had received public assistance prior to their entry into training.

It is immediately apparent that when these persons are removed from welfare rolls and trained for paid employment, they represent a direct saving to the taxpayer. This is important, but at least equally so are the human values which are conserved. Without the Manpower Development and Training Act most trainees would undoubtedly be subject to continued unemployment, and the human despair and defeat which come from this. Most would have little, if any, opportunity to acquire the new skills necessary to obtain and hold a job.

As a supplementary program, the Congress directed that the Work Experience Programs in Title V of the Economic Opportunity Act make maximum use of the training programs offered under the Manpower Development and Training Act.

Service to Youth

The Manpower Development and Training Act has steadily increased its service to youth of age 21 and under. In calendar 1962, 25% of the enrollees in institutional projects were in this age category. By the end of 1964, the percentage of youth enrollees 21 years of age or under increased to 33%.

In the experimental and demonstration projects, 9 out of 10 persons served were 21 years of age or younger.

We know that youth make up by far the largest percentage of our unemployed. Unless they can be absorbed gainfully into our economic life, they constitute, as Dr. James Bryant Conant has observed, an explosive force in our society.

Adults Still Prime Target

We are mindful that the primary intent of the Manpower Development and Training Act is to serve unemployed heads of families or households. We have been consistent with this intent. For that reason, it is worth noting here that the majority of the trainees in the Manpower Training programs cannot be served by the Vocational Education Act of 1963, because students in training under the Vocational Education Act receive no training allowances. This is a formidable barrier for the average Manpower trainee. Few unemployed heads of household can afford to forego all actual or potential income for the extended period necessary to obtain training. They have urgent responsibilities to their families. The critical factors in dropouts from training are reasons of personal and family finance. Only the Manpower Training program meets this situation.

Multi-Occupational Projects

In fiscal 1964, 40% of all trainees approved were in multi-occupational projects. Such a project is simply the gathering of a group of single projects into one coordinated program. A multi-occupational project makes it possible to evaluate the potential of each trainee for several occupations in which training is to be given. Multi-occupational programs enable us to deal with the problems and the needs of the job seeker, instead of only with the need for workers. They make a variety of pre-training services available; aptitude tests of the trainee's skills; assessment of his potential and interests; work tryouts; literacy training; and continuing guidance--in addition to his occupational training.

Such a program may be state-wide, as in South Carolina, where more than 30 different courses are dispersed throughout the State and have served more than 5000 individuals. In eastern Kentucky, a particularly hard-pressed area wherein unemployment is more than double the national average, a wide variety of courses have been conducted by the vocational schools.

A special kind of multi-occupational project was carried out in South Bend, Indiana, immediately after the closing of the Studebaker plant there. The special character of the

project was its emergency nature and the capacity of the Manpower Development and Training administrators to act quickly and effectively. The community of South Bend had been hard hit, and hundreds of people were in a state of some anxiety about their economic future. Two weeks after the assembly line closed down, representatives of the Departments of Labor and Health, Education, and Welfare had their first planning conference with state and community education and employment service officials. Within 90 days more than 400 former Studebaker employees were enrolled in three types of training courses.

To date, approximately 1500 trainees have been enrolled in courses in the South Bend project. Dramatic evidence has come to demonstrate demand for newer occupational skills. Several dozen members of a course in computer programming were hired before completing their courses. These placements have occurred in Detroit, Chicago, Gary and other towns in a tri-state area. Starting salaries have ranged from $5,000 to $7,200. Ford Motor Company is going to interview the entire balance of the class.

This experience may be called upon more frequently. The overall levelling off of defense expenditures, shifts in defense procurement due to changes in weapons requirement, and

the closing of obsolete military installations can cause more situations similar to South Bend. Defense industry is highly concentrated geographically. Even slight dips in the procurement program may cause severe hardship to workers in some communities where the majority of the labor force has been employed in defense industry. The Manpower Training program can play a vital role in emergency and sometimes near-disaster situations of worker displacements.

Widespread Acceptance

There has been enthusiastic response to the Manpower Development and Training Act. Today there are state agreements with all 50 states and territories of the Union. Nationwide, as of December 31, 1964, more than 5000 training projects have been approved, and more than 3000 of them are in operation. The major occupations involved include stenographer-secretary, machine operator, typist, clerk-typist, nurse's aide, automobile mechanic, welder, licensed practical nurse, automobile body repairman, sewing machine operator, and electronics assembler. Striking break-throughs have been made in training for new kinds of job openings. In some instances displaced auto workers and textile workers have been trained for sub-professional jobs in the field of mental health. Rapidly developing fields such as health services in general, and opportunities in state, local, and municipal government, are leading to training programs for older workers, youth, and minority groups. Altogether, more

than 500 different occupational titles have been approved for training.

But I only mean to suggest the scope, not to exhaust the detail of our progress to date in administering the Manpower Development and Training Act. The point to be stressed is that we have a body of experience and the accumulation of verified data that assures us we are on the right road, travelling in the right direction. Manpower development and training works. The programs are helping people in the most self-respecting way people can be helped: by giving them the means to help themselves.

The Manpower Development and Training Act is proving itself. However, in times such as ours -- of such rapid and massive changes in the economic order -- the Act should be modified to keep pace.

The Congress has recognized the need of adjustment before. After little more than a year of experience with the Manpower Development and Training Act of 1962, the Congress enacted amendments in 1963 to the original legislation and wisely extracted the lessons from experience at that time. These included permitting programs for the development of basic education and basic work skills, lowering the minimum age requirement for training from 19 to 17 years; making adjustments in the subsistence and training allowances, and other modifications.

Experience since that time has caused those of us charged with administering the Manpower Development and Training Act to recommend further amendments to carry out its intent and spirit.

It is these proposed amendments that I would like to discuss with you at this time.

It is recommended by the Department of Health, Education, and Welfare that the Manpower Development and Training Act be made permanent.

In considering an amendment to the Manpower Development and Training Act to make the legislation permanent, it is well to recall Sec. 101 in Title I of the original legislation. This is an admirable statement of the reasons for the employment problems of many of our fellow citizens. Sec. 101 recognizes the dislocations in our economy due to automation, technological development, foreign competition, changes in the structure of the economy, and shifts in market demands. It takes cognizance of the fact that even in periods of high unemployment, many jobs are unfilled because of a shortage of qualified personnel. This section recognizes likewise the entrance into the labor market of many new young people--the "tidal wave" as it has been called, of the post-war birth expansion. There was envisioned an "extraordinarily rapid growth of the labor force in the next decade".

It was only prudent of the Congress, however, to enact its first legislation in the area of Manpower Development and Training for a limited time, and later to give it a two-year extension until July, 1966. The beginning necessarily had to be experimental. The experience on which to base evaluation in 1963 was sufficiently short to make the first extension of the legislation limited.

Meanwhile what we expected has been confirmed, namely, that the basic economic situation as it affects manpower is not of momentary duration. By the end of 1964, we had already sustained the longest period of economic growth in the history of our Republic. In the last four years the Gross National Product had climbed more than $100 billion. Every economic forecast gives us reason to believe that the surge of productivity and economic growth will continue through 1965. Yet stubbornly persisting along with this economic growth is a factor of unemployment which remains too high. The unemployment factor has come down slowly. Four years ago it was nearly 7% of the labor force. It was approximately 4.8% as of January, 1965. This is progress, but to bring this rate down further into tolerable confines will take strenuous effort. The fact is that it is economically possible to have a high rate of productivity, a growing economy, and indeed an affluent society without using all of our manpower. But although this is economically possible, it is morally and humanly repugnant. And in the long run we know that unless our human capital is conserved and used, the economy and strength of the nation will be weakened. It would be unrealistic to claim that the Manpower Development and Training Act has been solely or even mainly

responsible for the progress we have made in combatting our high rate of unemployment. It is only one of the tools which the Congress has provided. It has however, become a necessary and valuable tool.

The most expert opinion does not care to predict what the net result of automation and technology will be on the structure of our economy, our way of life, our habits of work or our requirements for work. One hears both dire predictions and Utopian descriptions but both are speculative. We can only be sure that we cannot turn our backs on the radical demand for greater job skills, nor can we harden our hearts to the needs of people for gainful employment.

Millions of our fellow citizens have never been educated or trained for the kinds of jobs a new economic order can provide. Other millions have had once-useful jobs that the economy no longer needs. The fact now emerges that in the future the average person may have to be prepared to change his economic career several times in a lifetime. In any case, it is mandatory now and for the foreseeable future that we give people the equipment through training, to permit them to contribute to society and to themselves. The Manpower Training program is a challenge to the American ideal of equal opportunity. It is a challenge to our goals of individual independence and self-reliance.

The basic problems we must meet are not short-range, and therefore the solutions to them cannot be short-range either. At an immediately practical level the impermanence of the Manpower Development and Training legislation has made it difficult for the States to plan their roles in implementing it. With present authority terminating in 1966, the States are understandably reluctant to appropriate the funds to match the Federal share of training costs and allowances.

The financial barrier to planning might be moderated somewhat if another proposed amendment to reduce the amount of the State contribution is enacted. Even so, however, there are sound practical and psychological reasons for a permanent commitment in the law to meet the long-term problems.

The Manpower Training program fills a void in the total vocational education structure. The Vocational Education Act of 1963 is a permanent piece of legislation. The Manpower Training program should match it if an old vacuum is not to re-emerge.

After two and a half years of experience under the Manpower Development and Training Act, strong relationships have been developed between vocational educators and employment service representatives. Teachers have been hired and trained. These teachers are now quite expert in the complex business of training adults, and in the equally complex

business of training undereducated youth with special problems. The labor-force orientation of the Act--the insistence that training be related to actual job openings in the community--has had noticeable effect on regular vocational education programs. Dozens of new programs have been added to their regular offerings and they are kept alert to continuing developments in new job categories. All these gains would be lost if the Manpower Training program were allowed to terminate or if it were given any suggestion of less than the firmest support.

Our main emphasis, however, is that the problems which the Manpower Development and Training Act was designed to solve are not temporary problems. The Act indeed was not conceived as a crash program. The Act should be made permanent as an evidence of our commitment to the maximum development of the manpower of the nation.

It is recommended by the Department of Health, Education and Welfare that the maximum training period be increased to 104 weeks.

The present statutory limitation on the maximum duration of services in a Manpower Training program is 52 weeks for the occupational training part of the program. Where basic education and basic work skills must also be provided, the law permits another 20 weeks of training for a maximum of 72 weeks of training. The average planned length of current

projects is 36 weeks. This is an increase of 4 weeks over the 1963 average but we are remaining well within the statutory limitations. However, there are some programs for the extremely disadvantaged which we should be doing, but are not, because they cannot be carried out in a 72 week program. We do not desire to lengthen all programs. We are requesting a flexibility to extend some programs up to 104 weeks.

There are two principal reasons for seeking this flexibility: Persons with little education require more time in training. Secondly, some of the new kinds of job opportunities opening up require more extensive training.

Nearly 20% of all unemployed persons have less than 8 years of schooling. However, only 5% of the Manpower training enrollees have less than an 8th grade education. An increase in the number of training weeks would permit an increase in the number of persons with additional educational deficiencies who could be referred to training.

Just as some individuals present special problems in training, some new kinds of job opportunities demand special skill requirements. Our placement data tell us that graduates of the more highly skilled occupational training programs are readily placed in employment. Manpower projections indicate that this trend is going to increase. Even now we can anticipate the time when there will be few

places in the world of work open to unskilled persons. New jobs are being created, but only those calling for skills of an increasingly high order. Many job opportunities of this character are now automatically barred from inclusion in training programs by the fact that successful preparation is not possible in 52 weeks. We are particularly aware that the Manpower Development and Training program is not yielding enough workers who are prepared for jobs in scientific and technical fields that are vital to our continued economic growth. Training in many of the electronic, mechanical, and health fields must extend beyond the present one year allowance limit. As we face up to labor-force requirements and to demands of employers, we must give more training in certain fields.

It is not anticipated that the length of the average training program will increase sharply with an extension of the statutory limitation on training time. Greater flexibility is needed in order to accommodate the development of services and programs necessary for the most disadvantaged of our fellow citizens. Such flexibility would also enable us to meet the new possibilities for higher skill employment which our rapidly developing technology is creating.

An amendment to permit a training program to carry on for 104 weeks necessarily entails an amendment in the provision for those eligible for training allowances to accommodate this extension. Our third proposal is as follows: It is recommended by the Department of Health, Education, and Welfare that matching for training allowances and institutional training programs provided by the Department be continued on a 90/10 basis after July 1, 1965, and that non-federal contributions be in cash or kind.

Under the current Manpower Development and Training Act legislation, the States, beginning with fiscal year 1965, are to pay for one-third of the cost of the programs, and following that year are to pay one-half. There is impressive evidence however, that a number of State legislatures will not authorize matching funds at these ratios beginning July 1965.

A resolution adopted unanimously during an October 1964 Conference of Southern Governors calls for continued 100% financing by the federal government of Manpower Training projects. A similar resolution was also adopted in October 1964 at a meeting of the senior officials of all State employment security agencies.

It is a fact that the States have exerted strenuous effort in recent years to meet the needs of their people. The States and municipalities have had to bear the brunt to date

of coping with the knowledge explosion and the population explosion in our nation. Sixty-nine million persons have been born in the United States since 1949. We have had a net increase in population equal to the present population of Great Britain. The States and municipalities have stretched themselves to the utmost to provide the new facilities and public services that this population growth has required. Since most of this population is still in school, State and local governments have expended large resources for new schools, teachers, and educational equipment. Their gross effort in the last 19 years is startling: State-local bonded indebtedness since 1946 has increased more than 400%. Per capita State-local taxes have jumped more than 213%. This is many times the expansion of the federal government in these categories during the same period. This great effort has been made in spite of the inherent limitations in the taxing ability of the States and local units of government and in their sources of revenue.

States that have been hardest hit with problems of economic dislocation of workers, and who suffer a high unemployment rate or who have a greater problem with basic poverty, are caught in a vicious circle. They need more assistance than do other States. Yet their very condition reduces their financial resources with which to buy that help.

The Economic Opportunity Act of 1964 and the Area Redevelopment Act provide federal training funds on a 90/10 and a 100% basis respectively. It seems unrealistic to expect the States to provide a higher ratio of matching funds under the Manpower Development and Training Act, to continue the essential training needed for thousands of unemployed workers. Our next proposal is as follows: It is recommended by the Department of Health, Education and Welfare that the occupational training provisions of the Area Redevelopment Act be carried out by the Secretaries of Labor and of Health, Education, and Welfare according to the Manpower Development and Training Act in cooperation with the Secretary of Commerce. Training programs carried out in areas designated as redevelopment areas under the Area Redevelopment Act will carry full federal financing.

The Manpower Development and Training Act provides more diversified opportunities in occupational training than the provisions of the Area Redevelopment Act. The authorizations of the latter are more limited in nature and in scope.

It is becoming increasingly important also to incorporate the area redevelopment training projects into comprehensive State planning for manpower development. The recommendation that the Manpower Development and Training Act absorb the training provisions of ARA would facilitate the accomplishment of this planning. We further propose the following:

It is recommended by the Department of Health, Education, and Welfare that the Manpower Development and Training Act be amended to include a more significant role for experiment and demonstration and that the Secretary of Health, Education, and Welfare be involved in research projects in institutional training and the institutional training aspect, itself, of this important activity as set out in the proposed Section 102(6).

The Department of Health, Education, and Welfare is prepared to assume the administration of expanded and more flexible activity in research and in experimental and demonstration projects. The Department is in accord with the statement in House Report 861 of October 19, 1963, of the House Committee on Education and Labor (Sec. H. p. 20) that there are "unique and critically important contributions made to the program by these projects" and that the Department of Health, Education, and Welfare should seek to "develop more fully than it has, its participation in this research."

Research, experiment, and demonstration are indispensable adjuncts to an effective program of manpower training. The resources of all public and private agencies able to contribute innovations to the total training effort must be sought out and used on a broad and continuing basis. The Department of Health, Education, and Welfare is vitally interested in new and different approaches to institutional occupational training.

New training methods have already been developed as a result of imagination and ingenuity. For example, here in the District of Columbia, private business has developed unique training methods by which even those persons lacking a high school education, can be trained for certain data processing jobs in a relatively short time. The Bedford-Stuyvesant project in New York is achieving significant success in using programmed instruction. Other projects have made notable progress in teaching techniques and curriculum development to communicate basic education to culturally deprived individuals, and thus have broken through barriers that deplete motivation to learn new skills. This breakthrough is highly important, for more than 90% of the persons being served in experimental and demonstration projects are youth. These include a large number of school drop-outs and other alienated or socially maladjusted persons.

Despite the inventiveness and promise of these projects and others which have developed elsewhere, they are limited in scope. With the appropriate authority, the Department of Health, Education, and Welfare could take greater initiative and could more successfully pioneer in the areas of experiment and demonstration. To this end the appropriations should be increased so that greater effort can in fact be applied.

Experiment is vitally needed to provide special training programs for those workers who are now being displaced by automation and technological change.

It is important likewise to put continuing research into the training effectiveness of programs we have instituted. We should know why some individuals drop out of our programs. We should be able to measure their level of skill achievement by acceptable standards, and be kept alert to all the problems of adjusting training programs to the shifting job requirements in the rapidly changing work-patterns of our economy.

The Institute for Social Research of the University of Michigan is conducting a national Attitude Survey of Manpower Development and Training Act Trainees for the Department of Health, Education, and Welfare. The Institute is also conducting another study, an outgrowth of the attitude survey, on the Chicago JOBS Project. Partial results of the attitude survey will be available in time for the Secretary's Manpower Training Report to the Congress. Meanwhile, statistical analyses also are being made on the Chicago JOBS Project.

Chicago JOBS was designed to take unemployed and selected "unemployable" youth and transform them into productive, working young men and women. These young people come from deprived environments. Of the approximately 1,500 enrolled in the first year and more than 1,800 in the second, the average trainee had dropped out of school in the tenth grade, had a 6th grade reading level, and had a 5th grade arithmetic level. In six months of training the first trainees made a two-year grade level advance in reading and mathematical skills. These

people had been severely disadvantaged. By a combination of basic education, vocational education, and counselling, Chicago JOBS has had marked success in moving these youth from apathy and alienation to an atmosphere of opportunity and freedom.

Chicago JOBS is a particularly valuable project, and the kind of continuous program evaluation research being done there is necessary in other projects if we are to achieve and maintain a high degree of efficiency in serving the needs of manpower training in the most difficult cases.

The Department of Health, Education, and Welfare concurs in the other amendments to the Manpower Development and Training Act now pending before the subcommittee and as recommended by the Administration. They are not discussed in this statement because they were fully covered in testimony by the Secretary of Labor. It seems sufficient to say that we are in agreement that these amendments are necessary if the intent of the Act is to be fully carried out.

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(For reference on amendments not covered by testimony)

It is recommended by the Department of Health, Education and Welfare, that other amendments to the Manpower Development and Training Act, be enacted as follows:

1. Labor mobility demonstration projects. An amendment to extend for two more years and authorize up to $5 million per year for the pilot-programs of assistance to trainees in moving them from their home community where there is no employment opportunity, to another where jobs are available. There have been insufficient time and funds in the present authority to develop accurate knowledge about the need or desirability of developing such assistance.

2. Trainee bonding demonstration projects. It is desirable to carry out experiments in federal support of bonding facilities for persons who have completed a federally-sponsored manpower training program. The Manpower Development and Training Act has accepted for training individuals with juvenile and police records. Every effort has been made to place them in occupations which do not require bonding. While results have been satisfactory, this policy necessarily excludes from training the whole range of job possibilities where the handling of money is required. By insuring employers against loss from the possible dishonesty of such persons, we could gain verified knowledge on the wisdom of placing rehabilitated persons who have police records of offenses against property.

3. Training allowances.

a. An amendment provides for extending the period of training allowance support from one to two years. This is actually the enabling amendment which permits an extension of training time up to 104 weeks, discussed above.

b. An amendment provides for training allowances for a single person without dependents. Older women who must return to the labor market are a notable group who suffer hardship here if excluded from allowances. Some men also are blocked from developing economic independence by this exclusion.

It is also recommended that more than one person in a household whose head is unemployed be eligible for training allowances. Some pockets of poverty contain severely impoverished family groups. Permission to train more than one member of such a family group would hasten the rehabilitation of those families and speed them out of the poverty trap.

c. An amendment increases training allowances by $5 per week for each dependent over two up to a maximum of four. Heads of large families are often harassed by their responsibilities, and drop out of training. Present training allowances are based on state unemployment insurance averages, with some trainees being permitted up to $10 above that. Most training however, is done in the states with the lowest levels of unemployment benefits. When long periods of training are

required, present allowances are not enough to sustain a family without hardship.

4. Transportation allowances. Daily commuting costs can be expensive as a proportion of the training allowance. Sometimes transportation costs are a reason for an individual not enrolling in the first place, or for dropping out. When necessary for the effective operation of the program, the transportation costs should be allowed.

5. Job Development Programs. The bill is amended to give a stronger base for the job development program in the service areas, which the President urges be speeded up.

The service trade areas offer the greatest single area of expansion for new employment opportunities. All manpower projections show this. The Manpower Training program has already been alert to this training area, however a specific charge and mandate to do more, is welcome.

6. Miscellaneous. The Department of Health, Education and Welfare concurs in amendments to give the Secretary of Labor administrative flexibility in adjusting the percentage of those under age 22 who may receive training allowances; to permit on-the-job trainees to engage in outside work up to 20 hours without reduction of the training allowance (a provision that already applies for institutional trainees); and other technical amendments to change the methods of computing unemployment compensation payments.

MANPOWER DEVELOPMENT AND TRAINING ACT
Division of Vocational and Technical Education
USOE - DHEW

February 1, 1965

Cumulative Totals

- Over 5000 MDTA training projects approved for more than 305,000 trainees, in all 54 States and Territories, costing $190.5 million in Federal funds for institutional occupational training or an average of $624 per trainee. ($606 average allowance cost or $1,230 total average training cost.)

- Fiscal 1965 more than 1,900 projects were approved for over 134,000 trainees at a cost of $81.8 million for institutional training.

Trainee Information

- Top 10 States in Number of approved trainees - California - New York, Illinois, Pennsylvania, Michigan-Ohio-Massachusetts, Connecticut, Missouri, and Kentucky (Constitutes over 50% of all trainees).
- 182,000 trainees enrolled (Estimated)
- 85,000 trainees completed (Estimated
- 73% placed, 9 of 10 placed in jobs for which they were trained
- 3 of 5 trainees are men - 29% are non-white
- 45% of trainees are school dropouts - 40% high school - 5% elementary
- Largest age group - Ages 23-34 (38%)
- 56% are heads of household
- 33% unemployed over 6 months

Institutional Occupational Training Totals

	Total	FY 65	FY 64	FY 63
Trainees Approved	305,441	134,096	114,281	57,064
Trainees Enrolled	182,000	81,000	68,000	33,000
Trainees Completed	85,000	34,500	41,400	9,100
DHEW Costs	$190.546 M	81.832 M	78,455 M	30.259 M
D/L Costs	$185.047 M	92.592 M	69.677 M	22.777 M
Total Federal Costs	$376,165,441	$174,673,596	$148,355,681	$53,135,164

- The average MDTA trainee receives 1,200 clock hours of instruction
- De-activated military bases have been used for MDTA centers in Indiana, Ohio, California, ~~and~~ Iowa, + FLORIDA

Kinds of Institutional Occupational Training

- Over 500 occupational titles
- Leading occupational training areas:

Stenographer-Secretary	Typist - Clerk-Typist
Machine Operator	Auto Mechanic
Nurse Aide - Orderly	Welder
Licensed Practical Nurse	

- Examples of different kinds of training:

Precision Lens Grinder	Highway Technician
Photo Lithographer	Cafeteria Manager
Geriatrics Nursing Assistant	Surgical Technician
Embalmer	Engineering Aide
Computer Programmer	Engineering Equipment Mechanic

- Comparison of MDTA and Vocational Education enrollments:

Area	MDTA 1/	Vocational Education 2/
T & I	46%	24%
Business & District	30%	7%
Health	16% 94%	1% 32%
Technical	3%	4%
Agriculture	2%	20%
Home Economics	1%	44%

1/ 130,000 trainees 2/ Fiscal 1963 data

General Observations - MDTA

- Vocational Education Costs, 62% for instruction; 25% for equipment & tools
- Average length of training - 36 weeks
- Approximately 50,000 trainees receiving basic education
- In 1964, over 75 multi-occupational projects accounted for 40% of trainees
- Graduates in the skilled and service occupations were more successful than the clerical and sales trainees (mostly women) in finding employment
- Estimate 8,000 trainees in 80 different private schools

MDTA Dropouts

- Approximately 25% of trainees dropped out prior to completion
- Over half of the dropouts said they learned new skills in MDTA
- 30% said the training they did receive helped them obtain employment
- Only 8% of all trainees expressed dissatisfaction with the training

MDTA Matching

- Only 4 of 5 States have passed enabling legislation for matching funds. Most States seem uncertain ~~as to the mood of their legislater in appropriating matching funds. They need more time to evaluate the program~~ about their capacity to produce matching funds. The problem is one of overburdened state obligations.

M E M O R A N D U M

Ed Education

TO: THE VICE PRESIDENT

FROM: RON STINNETT

DATE: MARCH 8, 1965

RE: REPUBLICAN EDUCATION PROPOSAL MADE TODAY AT THE PRESS CONFERENCE

House Republicans today unveiled a plan to help U.S. education mainly through federal tax rebates for local school levies and college tuition costs.

The proposal would cost $3 to $5 billion per year compared to President Johnson's pending $1.5 billion aid to education program. The Republicans said their plan would avoid federal interference with local education and the church-state conflict as well as assure aid for poverty stricken children at the start of their schooling.

The Republican bill, developed as part of a new House GOP effort to offer "constructive alternatives" to great society proposals, was announced by Representatives William H. Ayres, R-Ohio, Charles E. Goodell, R-NY, and Thomas B. Curtis R-Md.

The bill would provide:

--$300 million a year in direct federal grants to the states for the improvement of education of about four million children aged three to eight from families earning $3,000 or less;

--Federal tax credits, up to $100 a year for school taxes paid either by property owners or renters, or up to $50 per grade or high school child up to $200;

--Federal tax credits up to $325 per year for the costs of college education;

--Direct federal payments up to $100 equal to half of local school taxes for persons who would not be able to claim a federal income tax credit.

Ayres, ranking GOP Member of the House Education and Labor Committee, said he will ask that further consideration of the Administration's elementary-secondary aid plan be suspended until the House Ways and Means Committee has an opportunity to consider the GOP tax credit proposal.

Although Chairman Howard W. Smith, D-Va., of the House Rules Committee might be receptive to Ayres' request to hold up the White House Bill, there was no sign that Chairman Wilbur Mills, D-Ark., of Ways and Means or the House Leadership would consider it.

Newsmen asked the three Republicans whether their aid plan was not similar to school assistance proposals offered in past years by former Senator Barry Goldwater, the 1964 Republican Presidential nominee.

Curtis said if there was a similarity it was because Goldwater had joined him and other Republicans in proposing college tuition tax credits. However, a GOP aide said Goldwater did propose tax credits based on property taxes paid to support elementary and secondary schools as well as the college credit plan.

The Republicans all said the tax relief afforded by their plan would permit local school districts to raise their taxes by an equal amount without further burdening their citizens. They argued that the record of support for local schools in recent years indicates that the "freed" money would go to education and not other purposes.

rs/f

COPY

Fill 89th Congress

MEMORANDUM

OCTOBER 27, 1965

TO: TED VAN DYK

CC: JOHN STEWART

FROM: RONALD F. STINNETT

Pursuant to your request for a summary of the major bills in the First Session of the 89th Congress, I attach these pages.

I have talked to John about your memorandum. This brief list is all the Vice President should need.

If you need more, please let me know.

DEMOCRATIC STUDY GROUP
Research Memorandum 65-24
October 14, 1965

DRAFT NEWSLETTER ON ACCOMPLISHMENTS OF FIRST SESSION, 89TH CONGRESS

(Note: Those items with asterisk [*] symbol have not received final action as of this date)

After more than ten months of unprecedented productive effort, the 1965 session of the Democratic 89th Congress has adjourned. Working together as a team with President Johnson and under the brilliant House leadership of Speaker McCormack and Majority Leader Albert, we have written the most outstanding record of legislative achievement in American history. Every American family directly benefits as a result of the forward-looking new laws enacted this year.

It was an honor to be a part of this Democratic team and to participate in the writing of the historic record of this session. For your information I am furnishing this brief summary of the major accomplishments of the 1965 session of the 89th Congress:

MEDICARE & SOCIAL SECURITY AMENDMENTS -- Provides hospitalization, surgical, and nursing home care for persons 65 years and older, financed through the Social Security System; increases Social Security benefits, retroactive to Jan. 1, 1965 and makes other liberalizing changes in Social Security law. --

ELEMENTARY-SECONDARY EDUCATION -- Provides Federal grant program to improve elementary and secondary education under local control, with bulk of aid for school districts where there are large numbers of children from poverty-stricken families.

EXCISE TAX REDUCTION -- Provides excise tax cuts totalling $4.7 billion on various consumer items such as appliances, telephone service, autos, etc.; eliminates most Federal excises by 1969.

OMNIBUS HOUSING ACT -- Expands current urban renewal, public housing programs, extends FHA loan insurance program, encourages urban planning and beautification in housing; provides new rent supplement program for certain low and moderate income families.

VOTING RIGHTS -- Strengthens machinery for guaranteeing right to vote to all citizens by prohibiting poll taxes, literacy tests; provides for Federal registrars in States where less than 50 percent of potential voters are registered or voted.

PUBLIC WORKS & ECONOMIC DEVELOPMENT -- Provides expanded program of grants and loans to communities for public works, development facilities, and other projects intended to aid economically depressed areas.

WATER POLLUTION CONTROL -- Expands water pollution control program, grants for waste treatment plant construction; strengthens Federal enforcement authority to clean up our rivers and streams.

DEPARTMENT OF HOUSING & URBAN AFFAIRS -- Establishes a new cabinet-level department to administer programs affecting the 70 percent of our population that now resides in metropolitan areas.

OMNIBUS FARM PROGRAM -- Improves and extends feed grain, wheat, dairy, and cotton programs, encourages cropland retirement, bolsters farm income.

IMMIGRATION ACT AMENDMENTS -- Abolishes discriminatory "national origins" quota system over 3-year period; establishes a 170,000 annual limit on immigrants, special preferences given to relatives of American citizens.

APPALACHIAN REGIONAL DEVELOPMENT -- Authorizes comprehensive State-Federal program to assist in the development of the economically depressed, 11-State Appalachian region.

MANPOWER DEVELOPMENT & TRAINING -- Extends and expands manpower training program to assist unemployed in learning new skills to qualify them for better jobs.

* HIGHER EDUCATION -- Authorizes expanded five-year program to assist colleges and universities to improve educational opportunities; provides student loan and scholarships to aid needy students.

ECONOMIC OPPORTUNITY PROGRAM -- Increases authorization for "Anti-Poverty" program, makes other improvements in the operation of various parts of the war on poverty.

MILITARY PAY INCREASE -- Provides an average 10.4 percent pay increase for some 4.2 million uniformed personnel of the armed forces, effective Sept. 1, 1965 (2.7 million on active duty, 1 million reservists, 500,000 retired).

REGIONAL MEDICAL CENTERS -- Authorizes three-year program of Federal grants to plan and develop a series of regional medical programs to fight heart disease, cancer, and stroke.

ARTS AND HUMANITIES -- Creates a National Foundation on the Arts and Humanities to assist and foster broad cultural programs in art, music, films, ballet, etc.

* HEALTH PROFESSIONS EDUCATION -- Extends and expands program of construction grants to medical, dental, and other similar educational institutions; establishes new program of scholarship grants for needy students, increases student loan program.

PRESIDENTIAL CONTINUITY -- Adopted proposed amendment to the Constitution to establish procedure to permit Vice President to become Acting President if the President is unable to perform his duties; provides for filling the vacancy of the office of Vice President.

CONGRESSIONAL ORGANIZATION -- Created a Joint Committee to study the organization and operation of Congress and to make recommendations to improve and streamline the work of Congress.

HEALTH RESEARCH FACILITIES -- Provides for extension of program to construct health research facilities; establishes three new Assistant Secretaries of Health, Education, and Welfare to administer expanded programs in this area.

COMMUNITY HEALTH SERVICES -- Extends programs for public health services providing vaccinations, immunization, other preventive treatment of diseases, migrant health clinics; and grants to States for general health services.

MENTAL HEALTH SERVICES -- Provides for initial staffing grants for personnel serving in community mental health centers.

DRUG CONTROLS -- Expands Federal control over certain depressant and stimulant drugs to reduce the illegal use of these dangerous drugs that affect the central nervous system.

OLDER AMERICANS -- Establishes new Administration on Aging in the Department of Health, Education and Welfare to develop programs to assist the aged.

JUVENILE DELINQUENCY -- Extends present law to assist communities in the development of new programs to prevent or control juvenile delinquency and youth crime.

WATER RESOURCES DEVELOPMENT -- Extends and broadens research program of converting saline water; another new law provides grants to States for the coordination of water resources planning and development; another new law establishes a grant program to assist in development of water supply and sewage disposal facilities in rural areas;*a separate program was authorized to plan a water supply system for the Northeastern part of the country.

AIR POLLUTION -- Establishes machinery for controlling motor vehicle air pollutants, accelerates air pollution research program, creates new program to find methods of disposing of solid wastes.

HIGHWAY BEAUTIFICATION -- Provides for gradual control over billboards, signs, etc. along Federally-aided highways of the interstate and primary systems; offers incentive grants for improvement of scenic areas along such highways.

*FEDERAL PAY COMPARABILITY -- Provides salary increase for Federal classified and postal employees to achieve more equitable relationship with pay of employees in private industry; makes other fringe benefits in pay and overtime allowances.

HIGH-SPEED RAPID TRANSIT -- Authorizes three-year program of research and demonstration projects for development of high-speed inter-city railroad transportation.

STATE TECHNICAL SERVICES -- Establishes new three-year program of Federal-State-local-technical cooperation to provide Technical Service Centers to disseminate findings of scientific and technological importance to commerce and industry.

RETIRED GOVERNMENT EMPLOYEES -- Provides for cost-of-living increases in annuities to retired employees of Federal government.

*VOCATIONAL TRAINING -- Expands vocational rehabilitation program to aid disabled persons;*another new program provides Federal loan insurance to high school graduates to finance tuition at business, trade, technical, and other vocational schools.

HOUSE RULES REFORM -- Amendments to rules of the House to expedite consideration of legislation, provide for democratic procedures.

If you desire additional information on any of these programs, please let me know. My office will be pleased to send you a copy of the Public Law.

I appreciate the opportunity of representing you in the House of Representatives and trust that you will contact me on any subject in which you may be interested.

Sincerely,

_____, M. C.

QUESTIONS FREQUENTLY RAISED CONCERNING THE ELEMENTARY AND SECONDARY EDUCATION ACT OF 1965 H. R. 2362, AS AMENDED BY THE GENERAL SUBCOMMITTEE ON EDUCATION

Q. 1 How are funds allotted to school districts under the provisions of Title I?

Of the $1,270,000,000 authorized to be appropriated by the Elementary and Secondary Education Act of 1965 approximately $1,000,000,000 of it is authorized in Title I and is to be distributed to local public school agencies pursuant to the following formula:

$\frac{a}{2} \times b$ = number of dollars payable to local school district

a = Average state expenditure per pupil (includes local expenditures)

b = Number of children ages 5 - 17 coming from families with annual incomes of $2000 or less

Census data are available to enable the formula to give a precise breakdown on the number of children in the income categories and immediately establish an entitlement for each county and some cities and towns in the United States. The bill then authorizes the State school agency to make distribution for approved programs to school districts within a county. Where such data are not satisfactory for this purpose it may be distributed to school districts within the county on such data as may be developed within the county to assure that the funds will be apportioned to the school districts on the basis of the concentrations of economically disadvantaged children attending the schools in such districts. No grant to a school agency under the provisions of this title may be greater than 30% of the sum budgeted by that school agency for current expenditures for that year.

Q.2 Is it true that the family income level of $2000 per annum would not include Public Assistance recipients?

The $2000 family income level is based on census data and is available for every county in the United States. Any Public Assistance received by a family during the course of a year is calculated within the $2000 figure. In some states it has been suggested that this operates inequitably against those few areas where Public Assistance rates may be as high as $2400 per annum. The most accurate and uniform data available, according to experts both in the Department of Commerce and in the Department of Health, Education, and Welfare, are the level of income data compiled by the Bureau of the Census. Any possible inequities which might occur by reason of the varying cost of living from one area as compared to another is more than compensated by the use in the formula of state average per pupil expenditures. The use of the state average per pupil expenditure rather than the national average per pupil expenditure, if anything, overly compensates the more affluent states for higher costs of living. For example, 25% of the children in Alabama come from families

with less than $2000 income. There are 226,700 such children in that state which, under the formula, would receive $31,738,000. Only 6% of the children in New York state come from such families and there are 213,201 such children, yet the payment to New York state under the terms of the formula, is $75,127,295.

Q.3 Isn't the use of the 1960 census data an inaccurate means of determining poverty in 1966 and 1967?

The Commissioner is required to make his determinations on the basis of the most recent satisfactory data available from the Department of Commerce. If more recent census data is available, the Commissioner would use it. In addition, the Commissioner may request the Secretary of Commerce to make special estimates of the number of such children in each county or school district. In addition to this safeguard, the numbers of children coming from families with incomes of less than $2000 represents less than 3% of the total population in the United States. It is reasonable to assume that influxes of population will to some extent reflect the same percentage characteristics of the total population so that only a relatively small percentage of increases in populations in areas or decreases in areas would be in the $2000 and under family income categories. Census technicians have indicated that the use of projected census data or more current census analysis would not materially affect the distribution of the funds under the formula.

Q.4 Would it be more equitable to use $3000 as the eligible level for the formula?

The effect of this type of adjustment in the formula is to create substantial percentage reductions in the amounts payable to the states with relatively low per capita incomes with small percentage increases in the high per capita income states. For example, this type of formula adjustment would result in the state of California receiving $60,897,016 instead of the $60,137,510. Largely the effect of an adjustment in the formula of this nature is to spread the impact of the program closer to the middle income group rather than having its effect concentrated in the areas of most severe poverty.

In the Administration's recommendations to the Congress both the factor representing the percentage of average per pupil expenditure as well as the family income level factor remained to be determined by the Office of Education for the second two fiscal years of the programs operation. This left open the possibility of changes in the family income factor as well as the 50% factor for fiscal years 1967 and 1968. In an amendment adopted by the Subcommittee these determinations were left up to the Congress for fiscal years 1967 and 1968. Decisions as to the most equitable distribution of funds can then be made by the Congress with the benefit of the experience gained in the allocation of funds under the formula for fiscal year

1966. (See also Staff Memorandum containing an analysis of the formula and the study of other possible formula factors).

Q.5 Does the Bill, particularly Titles I and III, permit a public educational agency to provide a teacher or teachers in parochial schools?

All of the education programs authorized by the legislation are publicly controlled, publicly sponsored, and publicly administered. In this connection, the program is no different in its operation from the vocational education services provided by a state from federal funds made available under the provisions of the Vocational Education Act of 1963 or funds made available under the provisions of the Impacted Areas legislation, P. L. 874.

The Subcommittee has taken care to assure that all funds going from the Elementary and Secondary Education Act of 1965 are publicly administered and under public direction and control at all times even though the legislation also assures that non-profit private school attenders shall be afforded the opportunity by the public school authorities to receive the benefit of the public educational programs to be conducted under Title I and Title III. It should be pointed out that the Subcommittee has preserved local school autonomy in administrative decisions as to how it shall conduct its public school programs. Any further federal restrictions in the bill or by regulation as to how the local education agency is to administer the program beyond the absolute requirement that they be publicly controlled and publicly operated would offend this principle.

Q.6 Does the bill make grants to private schools for the purchase of textbooks?

No. All of the funds provided by the Elementary and Secondary Education Act of 1965 are used to help finance educational programs under the direct responsibility, control, and supervision of public educational agencies. Title II of the bill, which authorizes the appropriation of $100,000,000 for fiscal year 1966, requires that the funds be used in providing textbooks approved by public school authorities for use in public schools. The books would be available to private non-profit school students as well as to students attending public schools. Books made available to students under this title are on a loan basis and the public school authority maintains title and control over the use of the textbook materials.

Q.7 How will the "Textbook Title" of the bill be administered?

From the $100,000,000 authorized to be appropriated for the textbook provisions of Title II, the Commissioner of Education will make allocations to the states on the basis of a formula (the relative number of children enrolled in elementary and secondary schools in the state as compared to the total number of such children enrolled in all such schools in all states).

The books which may be provided to school children are the books approved for use in the public schools by the public agency in the state having authority to prescribe such books or which are used in the public schools in the state. Throughout the legislation the principle of state and local autonomy and the control over education policy has been maintained. In this respect the bill only requires the state to maintain public ownership of the textbook material and the books be made available without discrimination to all elementary and secondary school children. Consequently, the administration of the textbook Title will vary from state to state to conform to local school administrative practice. In some instances, the state might see fit to utilize or establish a central depository from which all school children could "check out" textbook materials under procedures which assure the state administration an accounting of the use of the material and its proper return for reassignment when the material has served the purposes of the individual student. By the same token, library material could be made available on loan from the depository to other libraries serving the area.

Q. 8. Testimony during the public hearings on the Elementary and Secondary Education Act of 1965 indicates that there were some 32 states whose state laws prohibit the furnishing of textbooks to parochial school students. Will this not prevent the use of Title II in those 32 states?

Some 32 states have court decisions and constitutional provisions preventing aid to parochial school systems but there are many factors involved in the court decisions and the statutes and constitutional provisions of these states which leave in doubt their applicability to a state's administration of the program authorized by Title II of the bill. It should also be observed that 19 states specifically provide for the provision at public expense of the transportation of parochial school students. The laws of 4 states, Louisianna, Mississippi, New Mexico, and Rhode Island, specifically call for the distribution of textbooks to children in private schools. In addition, West Virginia authorizes the Board of Education of every county to provide free textbooks to private school attenders who are indigent. Contrasted with these forms of permissible aid to students attending private schools is the decision of the Oregon Supreme Court which holds in violation of the state constitution the distribution of "free textbooks" to "parochial schools". One or more of the ingredients safeguarding the separation of church and state which are present in the requirements of Title II may be lacking in the state statutory and court decisions in the 32 states mentioned above. The safeguards in the Title II provisions of the Elementary and Secondary Education Act of 1965 are:

(1) The distribution of textbook and library material is made directly to students by a public authority.

(2) The public authority retains title to the textbook material and issues them to citizens of the area to be served on a loan basis only.

(3) The public agency maintains administrative supervision over the uses of the textbook materials furnished.

(4) Only textbook material may be loaned to students, which material has been approved by the public agency for use in the public schools.

With these strict conditions imposed upon the operation of Title II, in principle, its operation would not be any different than the conduct of a public library program which makes available on a loan basis unrestricted library materials to both public and private school students. It is quite likely that when the provisions of Title II are considered in the light of the particular state laws that most, if not all the states will be able to administer the textbook program in conformity with state law. In the event that a strict state prohibition is encountered in any state the Commissioner of Education is authorized to make available to private school attenders textbook material, but only those materials which have been approved for use in public schools.

John H

Draft on Educ Message

Fy. Files

File education

Toward Full Educational Opportunity

INTRODUCTION

To the Congress of the United States:

In 1787, the Continental Congress declared in the Northwest Ordinance:

> "schools and the means of education shall
> forever be encouraged."

America is strong and prosperous and free [redacted] because for one hundred and seventy-eight years we have honored that commitment.

In the United States today:

- One-quarter of all Americans are in the nation's classrooms.
- High school attendance has grown 18-fold since the turn of the century -- 6 times as fast as the population.
- College enrollment has advanced 80-fold. Americans today support a fourth of the world's institutions of higher learning and a third of its professors and college students.

In the life of the individual, education is always an unfinished task.

And in the life of this nation, the advancement of education is a continuing challenge.

There is a darker side to education in America:

- One student out of every three now in the fifth grade will drop out before finishing high school -- if the present rate continues.
- Almost a million young people will continue to quit school each year -- if our schools fail to stimulate their desire to learn.
- Over one hundred thousand of our brightest high school graduates each year will not go to college -- and many others will leave college -- if the opportunity for higher education is not expanded.

The cost of this neglect runs high -- both for the youth and the nation.

- Twenty percent of our 18 to 24 year olds with an eighth grade education are unemployed -- four times the national average.
- Jobs filled by high school graduates rose by 40% in the last ten years. Jobs for those with less schooling decreased by nearly 10%.

We can measure the cost in even starker terms. We now spend about $450 a year per child in our public schools. But we spend $1800 a year to keep a delinquent youth in a detention home, $2500 a year for a family on relief, $3500 a year for a criminal in state prison.

The growing numbers of young people reaching school age demand that we move swiftly even to stand still.

- Attendance in elementary and secondary schools will increase by 4 million in the next ~~decade~~ five years. 400,000 new classrooms will be needed to meet this growth. But over 1 1/2 million of the nation's existing classrooms are already more than 30 years old.
- The post-World War II boom in babies has now reached college age. And by 1970, our colleges must be prepared to add 50% more enrollment to their presently overcrowded facilities.

In the past, Congress has supported an increasing commitment to education in America. The Eighty-eighth Congress passed historic laws to provide:

- facilities badly needed by universities, colleges and community colleges;
- major new resources for vocational training;
- more loans and fellowships for students enrolled in higher education;
- enlarged and improved training for physicians, dentists and nurses.

I propose that the Eighty-ninth Congress join me in extending the commitment still further. I propose that we declare a national goal of Full Educational Opportunity.

Every child must be encouraged to get as much education as he has the ability to take.

We want this not only for his sake -- but for the nation's sake.

Nothing matters more to the future of our country: not our military preparedness -- for armed might is worthless if we lack the brain power to build a world of peace; not our productive economy -- for we cannot sustain growth without trained manpower; not our democratic system of government -- for freedom is fragile if citizens are ignorant.

We must demand that our schools increase not only the quantity but the quality of America's education. For we recognize that nuclear age problems cannot be solved with horse-and-buggy learning. The three R's of our school system must be supported by the three T's -- teachers who are superior, techniques of instruction that are modern, and thinking about education which places it first in all our plans and hopes.

Specifically, four major tasks confront us:

- to bring better education to millions of disadvantaged youth who need it most;
- to put the best educational equipment and ideas and innovations within reach of all students;
- to advance the technology of teaching and the training of teachers;
- to provide incentives for those who wish to learn at every stage along the road to learning.

Our program must match the magnitude of these tasks. I will submit budget requests of $1.5 billion for fiscal 1966 to finance the new programs contained in this message. Also, I ~~am providing~~ for $530 million in additional expenditures ~~for an additional $650 million~~ for expansion of education programs already established under existing law. This increased allotment -- less than one third of one percent of our nation's product -- is a

small price to pay for developing our nation's most priceless resource.

In all that we do, we mean to strengthen our state and community education systems. Federal assistance need not mean federal control. As the late Senator Robert Taft declared: "Education is primarily a state function -- but in the field of education, as in the fields of health, relief and medical care, the Federal Government has a secondary obligation to see that there is a basic floor under those essential services for all adults and children in the United States."

In this spirit, I urge that we now push ahead with the number one business of the American people -- the education of our youth in pre-schools, elementary and secondary schools, and in the colleges and universities.

I. Preschool Program

My budget will include up to $150 million for preschool projects under the Community Action Program of the Economic Opportunity Act.

Education must begin with the very young. The child from the urban or rural slum frequently misses his chance even before he begins school. Tests show that he is usually a year behind in academic attainment by the time he reaches third grade -- and up to three years behind if he reaches the eighth grade. By then the handicap has grown too great for many children. Their horizons have narrowed; their prospects for lifetimes of failure have hardened. A large percentage of our young people whose family incomes are less than $2,000 do not go beyond the eighth grade.

Preschool programs have demonstrated marked success in overcoming this initial handicap:

- In New York City, children from slum neighborhoods who attended nursery school have performed better when tested in the third and fourth grades than those who did not attend.

- In Baltimore, children with language and cultural handicaps are being helped greatly by a pre-school program. According to preliminary reports, 2/3 of these are in the top 50% of their kindergarten and first grade classes on a city-wide measure; 1/6 of them are in the top quarter.

But today, almost half of our school districts conduct no kindergarten classes. Public nursery schools are found in only about 100 of our 26,000 school districts. We must expand our preschool program in order to reach disadvantaged children early.

Action on a wide front will begin this summer through a special "Head-Start" program for children who are scheduled to begin school next fall. In addition, funds for low-income schools, regional education laboratories, and supplementary educational centers and services (recommended below) will be devoted to these vital preschool programs.

These funds will be included in my budget for the program to combat poverty. I urge the Congress to appropriate the full amount.

II. Elementary and Secondary Schools

Elementary and secondary schools are the foundation of our education system.

- Forty-eight million students are now in our grade and high schools.
- 71 percent of the Nation's expenditures for education are spent on elementary and secondary schooling.

If these schools are to do their job properly, they need help and they need it now. I propose that we give first priority to a program of:

A. Aid to Low-Income School Districts

I recommend that legislation be enacted to authorize a major five-year program of assistance to public elementary and secondary schools serving children of low-income families. My budget for Fiscal 1966 will request $1 billion for this new program.

One hundred years ago, a man with six or seven years of schooling stood well above the average. His chances to get ahead were as good as the next man's. But today, lack of formal education is likely to mean low wages, frequent unemployment, and a home in an urban or a rural slum.

Poverty has many roots but the tap root is ignorance.

- Poverty is the lot of two-thirds of the families in which the family head has had eight years or less of schooling.
- Twenty percent of the youth aged 18 - 24 with an eighth grade education or less are unemployed -- four times the national average.

Just as ignorance breeds poverty, poverty all too often breeds ignorance in the next generation.

- Nearly half the youths rejected by Selective Service for educational deficiency have fathers who are unemployed or else working in unskilled and low-income jobs.
- Fathers of more than one-half of the draft rejectees did not complete the eighth grade.

The burden on the nation's schools is not evenly distributed. Low-income families are heavily concentrated in particular urban neighborhoods or rural areas. Faced with the largest educational needs, many of these school districts have the smallest financial resources. This imbalance has been increased by the movement of high income families from the center of cities to the suburbs -- and their replacement by low-income families from rural areas.

- The five States with the lowest incomes spend only an average of $276 per pupil, less than half the average of the five highest-income States.
- Despite a massive effort, our big cities generally spend only about two-thirds as much per pupil as their adjacent suburbs.
- In our fifteen largest cities, 60 percent of the tenth grade students from poverty neighborhoods drop out before finishing high school.

Because of the high mobility of our population, this is a national problem. Federal action is needed to assist the States and localities in bringing the full benefits of education to children of low-income families.

Assistance will be provided:

- On the basis of Census data showing the distribution of low income families among the counties or school districts within States.
- Through payments made to states for distribution to school districts.
- Subject to an approved plan to assure that the funds will be used for improving the quality of education in schools serving low income areas.
- On the condition that Federal funds will not be used to reduce state and local fiscal efforts.
- For the benefit of all children within the area served, including those who participate in shared services or other special educational projects.

B. School Library Resources and Instructional Materials

I recommend legislation to authorize Federal grants to States to assist in the purchase of books for school libraries and for student use, to be made available to children in public and private non-profit elementary and secondary schools.

Thomas Carlyle once said, "All that mankind has done, thought, gained or been: it is lying as in magic preservation in the pages of books."

Yet our school libraries are limping along.

- Almost 70 percent of the public elementary schools have no libraries. Eighty-four percent lack librarians to teach children the value of learning through good books.
- Many schools have an average of less than 1/2 book per child.
- To meet the accepted standards for library materials would require a four-fold increase in current expenditures in our major cities.

The explosion of knowledge and the rapid revision of curricula in the schools has created new demands for school textbooks. The obsolete text can suffocate the learning process. Yet the cost of purchasing textbooks at increasing prices puts a major obstacle in the path of education.

C. Supplementary Educational Centers and Services

I recommend a program of Federal grants for supplementary education centers and services within the community.

We think of schools as places where youth learns, but our schools also need to learn.

The educational gap we face is one of quality as well as quantity.

Exciting experiments in education are under way, supported by the National Science Foundation, by the Office of Education and other Government agencies, and by private philanthropic foundations. Many of our children have studied the "new" math. There are highly effective ways of teaching high school physics, biology, chemistry, and foreign languages.

We need to take full advantage of these and other innovations. Specialists can spark the interest of disadvantaged students. Remedial reading courses open up new vistas for slow learners. Gifted students can be brought along at a faster pace.

Yet such special educational services are not available in many communities. A limited local tax base cannot stand the expense. Individual schools are not large enough to justify the services.

The supplementary center can provide such services as:

- Special courses in science, foreign languages, literature, music, and art.
- Programs for the physically handicapped and mentally retarded.
- Instruction in the sciences and humanities during the summer for economically and culturally deprived children.
- Special assistance after regular school hours.
- Common facilities that can be maintained more efficiently for a group of schools than for a single school -- laboratories, libraries, auditoriums, and theaters.
- A system by which gifted persons can teach part time and offer their scarce talents.
- A means of introducing into the school system new courses, instructional materials, and teaching practices.
- A way of tapping the community's extra-curricular resources for the benefit of students -- museums, concert and lecture programs, and industrial laboratories.

Within each community, public and private non-profit schools and agencies will cooperate to devise the plan and administer the program for these supplementary centers. Each one's services should be adapted to meet the pressing needs of its own locality.

D. Regional Education Laboratories

I recommend the establishment under the Cooperative Research Act of regional educational laboratories which will undertake research, train teachers, and implement tested research findings.

I further recommend amendments to the Act to:

- Broaden the types of reseach organizations now eligible for educational projects.
- Train educational research personnel.
- Provide grants for research, development of new curricula, dissemination of information, and implementation of educational innovations.
- Support construction of research facilities and the purchase of research equipment.

Under auspices of the National Science Foundation, educators have worked with scientists -- including Nobel laureates -- to develop courses which capture the excitement of contemporary science. They have prepared totally new instructional materials -- laboratory equipment, textbooks, teachers' guides, films, supplementary reading and examinations. After testing, they are made available to public and private schools.

We need to extend this research and development -- to history, literature, and economics; to art and music; to reading, writing,

and speaking; to occupational, vocational, and technical education. We need to extend it to all stages of learning -- preschool, elementary and secondary schools, college and graduate training.

Regional laboratories for education offer great promise. They draw equally upon educators and the practitioners in all fields of learning -- mathematicians, scientists, social scientists, linguists, musicians, artists, and writers. They help both to improve curricula and to train teachers.

The laboratories must have close ties with the State departments of education. But they should also work with the schools and supplementary education centers in order to bring innovation directly to the student.

E. Strengthening State Educational Agencies

I recommend a program of grants to State educational agencies.

State leadership becomes increasingly important as we seek to improve the quality of elementary and secondary education.

We should assist the States by strengthening State departments of education in:

- Providing consultative and technical assistance for local school districts and local school leadership.

. Formulating long range plans.

. Expanding educational research and development.

. Improving local and State information about education.

. Identifying emerging educational problems.

. Providing for the training of State and local education personnel.

. Conducting periodic evaluation of educational programs.

. Promoting teacher improvement courses.

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These new programs will substantially augment community resources in the war against poverty. As provided by sections 611 and 612 of the Economic Opportunity Act of 1964, I will see that the new efforts are kept in step with our other anti-poverty efforts.

In those localities where the community has undertaken a Community Action Program under the Economic Opportunity Act, the community agency should participate in the planning of these new educational programs and in their coordination with on-going and developing anti-poverty efforts.

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Enactment of these proposals for elementary and secondary

education is of utmost urgency. I urge early consideration by the Congress.

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III. Higher Education

Higher education is no longer a luxury, but a necessity.

Programs enacted by Congress in the past have contributed greatly to strengthening our colleges and universities. These will be carried forward under my 1966 budget, which includes:

- An additional $179 million to assist construction of college classrooms, libraries and laboratories.
- An additional $25 million for 4,500 more graduate fellowships to overcome college teaching shortages.
- An additional $110 million to further basic research in the universities and to promote science education.

But we need to do more:

- To extend the opportunity for higher education more broadly among lower and middle income families.
- To help small and less well developed colleges improve their programs.
- To enrich the library resources of colleges and universities.

- To draw upon the unique and invaluable resources of our great universities to deal with national problems of poverty and community development.

A. Assistance to Students

1. Scholarships

I recommend a program of scholarships for needy and qualified high school graduates to enable them to enter and to continue in college.

Loans authorized by the National Defense Education Act currently assist nearly 300,000 college students. Still the following conditions exist:

- Each year an estimated 100,000 young people of demonstrated ability fail to go on to college because of lack of money. Many thousands more from low-income families must borrow heavily to meet college costs.
- Only one out of three young people from low income families attend college compared with four out of five from high income families.

For many young people from poor families loans are not enough to open the way to higher education.

Under this program, a special effort will be made to

identify needy students of promise early in their high school careers. The scholarship will serve as a building block, to be augmented by work-study and other support, so that the needy student can chart his own course in higher studies.

My 1966 budget provides sufficient funds for grants to help up to 140,000 students in the first year.

2. Expansion of Work-Study Opportunity and Guaranteed Low Interest Loans

I recommend:

- that the existing college work-study program be made available to more students and that authority for the program be transferred to the Department of Health, Education, and Welfare.

- A program to make available guaranteed private loans to cover college expenses with a grant to meet part of the cost of interest payments on the loan.

Going to college is increasingly expensive. A student must pay nearly $2,400 a year in a private college and about $1,600 in a public college. These costs may rise by one-third over the next decade.

Two aids should be extended to meet the heavy costs of college education. First, the existing work-study program should be expanded for students from low-income families and extended

to students from middle-income families. Under this program the Federal Government pays 90 percent of the wages earned by students on useful projects, with the limitation that the student cannot work more than 15 hours a week. This will enable a student to earn on the average of $450 during a school year, and up to $500 more during the summer.

Second, many families cannot cover all of college expenses on an out-of-pocket basis. We should assure greater availability of private credit on reasonable terms and conditions. This can best be done by guaranteeing the repayment of loans made by private lenders -- a more effective, fairer, and far less costly way of providing assistance than the various tax credit devices which have been proposed.

B. Aid to Smaller Colleges

I recommend that legislation be enacted to strengthen less developed colleges.

Many of our smaller colleges are battling for survival. About 10 percent lack proper accreditation, and others face constantly the threat of losing accreditation. Many are isolated from the main currents of academic life.

Private sources and states alone cannot carry the whole burden of doing what must be done for these important units in our total educational system. Federal aid is essential.

Universities should be encouraged to enter into cooperative relationships to help less developed colleges, including such assistance as:

- A program of faculty ~~and student~~ exchanges.
- Special programs to enable faculty members of small colleges to renew and extend knowledge of their fields.
- A national fellowship program to encourage highly qualified young graduate students and instructors in large universities to augment the teaching resources of small colleges.
- The development of joint programs to make more efficient use of available facilities and faculty.

In union there is strength. This is the basic premise of my recommendation.

C. Support for College Library Resources

I recommend enactment of legislation for purchase of books and library materials to strengthen college teaching and research.

50 percent of our four-year institutions and 82 percent of our two-year institutions fall below accepted professional standards in the number of volumes possessed.

As student enrollment mounts, we must look not only to the physical growth of our colleges and universities. They must be developed as true centers of intellectual activity. To construct a library building is meaningless unless there are books to bring life to the library.

D. University-Community Extension Program

I recommend a program of grants to support university extention concentrating on problems of the community.

Institutions of higher learning are being called on ever more frequently for public service -- for defense research, foreign development, and countless other programs. They have performed them magnificently. We must now call upon/to meet new needs.

Once, 90 percent of our population earned its living from the land. A wise Congress enacted the Morrill Act of 1862 and the Hatch Act of 1887 which helped the state universities help the American people. With the aid of the land grant colleges, American agriculture produced overwhelming abundance.

Today, 70 percent of our people live in urban communities. They are confronted by problems of poverty, residential blight, polluted air and water, inadequate mass transportation and health services, strained human relations, and overburdened municipal services.

Our great universities have the skills and knowledge to match these mountainous problems. They can offer expert guidance in community planning; research and development in pressing educational/economic problems; and job market studies; continuing education of the community's professional and business leadership; and programs for the disadvantaged.

The role of the university must extend far beyond the ordinary extension-type operation. Its research findings and talents must be made available to the community. Faculty must be called upon for consulting activities. Pilot projects, seminars, conferences, TV programs, and task forces drawing on many departments of the university -- all should be brought into play.

This is a demanding assignment for the universities, and many are not now ready for it. The time has come for us to help the university to face the city as it once faced the farm.

E. Special Manpower Needs

We must also ask the colleges and universities to help overcome certain acute deficiencies in trained manpower. At least 100,000 more professional librarians are needed for service in public libraries and in schools and colleges. We need 140,000 more teachers for handicapped children.

I recommend:

- Grants to institutions of higher education for training of school, college, and community librarians and related services.
- Extension and expansion of grants for training teachers and handicapped children.

CONCLUSION

In 1838, Mirabeau B. Lamar, the Second President of the Republic of Texas and the father of Texas education, declared: "The cultivated mind is the guardian genius of democracy. It is the only dictator that free man acknowledges. It is the only security that free man desires."

Throughout the history of our nation, the United States has recognized this truth. But during the periods when the country has been most astir with creative activity, when it most keenly sensed the sturdiness of the old reaching out for the vigor of the new, it has given special attention to its educational system.

This was true in the expansive 1820's and 30's, when the American people acted decisively to build a public school system for the lower grades. It was no less true at the vigorous turn of the twentieth century, when high schools were developed for the millions. Again, during the questing 1930's, fresh ideas stirred the traditions of the ruler and blackboard.

We are now embarked on another venture to put the American dream to work in meeting the new demands of a new day. Once again we must start where men who would improve their society have always known they must begin -- with an educational system restudied, reinforced, and revitalized.

BRANDEIS UNIVERSITY
WALTHAM 54, MASSACHUSETTS

Confidential

Memorandum

TO: SENATOR HUBERT H. HUMPHREY 7 December 1964

FROM: JOHN P. ROCHE

SUBJECT: TASK FORCE REPORT: EDUCATION

It is hard to begin this critique on a note of dispassionate objectivity--with which I understand all governmental critiques are supposed to begin--so let me put the matter in blunt terms: This Report is an insipid, unimaginative, and immensely depressing refusal to come to grips with the fundamental issues in the field of education. It is rather as if the President had asked a group of engineers for an examination of the potentialities of American technology and received from them a Sears Catalogue.

I do not find myself in substantive disagreement with most of their proposals. But, with almost unnerving aplomb, the Task Force has ducked the three major problems in American primary and secondary education as I perceive them. Let me be specific.

First, the myth of states'-rights. No politically sensitive group would come out and say flatly that the role of the states is counter-productive in education. Yet, however disguised, the administrative problem that faces the national government is how to make direct and fruitful contact with local school boards without too great a payoff to the state departments of education. Patently, the state education departments have got to be assuaged in one way or another. This can be done here, as it has in other areas, but the major weapon at the disposal of the national government must be mobilized, namely, public opinion.

The average citizen takes two levels of government seriously in a functional sense: local (city, county, township, etc.) and national. He generally holds a thoroughly jaundiced view of state government, suspecting that an honest grand jury would have the whole crew under indictment in six weeks if opportunity presented itself. If he is confronted with a choice between some antique abstraction called states'-rights and a quality education for his children, he will unhesitatingly opt for the latter.

Consequently the federal government has enormous potential authority over standards of education and should forge ahead with a program of direct grants. This already exists in the "impacted areas" program,

but without quality checks. As the Task Force at one point suggests, this program should be expanded to include other school districts which are having problems, but quality minima (and moral minima such as desegregation) should be enforced.

A program such as this would be denounced by some as federal interference in state and local matters, but the reply is simple: first, there is no reason to believe that the national government is any less responsible to the people than states or school boards (indeed, I would argue the contrary proposition); and, second, no school district would have to accept federal assistance if it did not choose to do so.

The underlying reality is that we are now a nation, not an aggregation of parochial units. Our educational program should reflect this reality. And it would serve, under effective administration, as a national equalization scheme which would channel funds into those areas incapable of supporting a first-rate educational system.

Most of all, it would meet what I take to be the outstanding crisis in education: the shortage of money at the cutting edge of public education, money to hire good teachers and take advantage of the innovation which already exists. Despite the Task Force's emphasis on innovation, Education Laboratories, and the like, I would argue that (though further work would be useful and worth subsidization) the difficulty today does not arise from a lack of ideas but from a shortage of funds to put already existing ideas into wide usage. My nine year old daughter is multiplying fractions and doing primitive set theory in fourth grade mathematics at a private school; her buddy next door in the fifth grade at Waltham public school is adding columns and doing long division.

Second, the Task Force has nimbly skirted the church-state problem. As I noted above, I fully respect their right to be politically shrewd, but unfortunately this is an issue which must be faced.

I hold no brief for parochial or private schools--if the Waltham schools were educationally adequate, our daughter would be enrolled in them--but we cannot permit a major educational objective to be thwarted by what I, at least, am convinced is an irrelevant roadblock. President Kennedy, for reasons which I need not elaborate, painted himself into a corner on this question on highly dubious constitutional grounds.

The way out of the impasse that makes sense to me (though I admit it is an administrative fiction, like choosing the age of 65 as the eligibility point for Social Security for men) is to authorize federal aid to all institutions which 1) fulfill certain minimal educational standards, and 2) employ federal monies for non-liturgical ends,

i.e., a Catholic school could build a chemistry lab, but not a chapel. Granted such a view would bring the ideologues of the "separation of church and state" out screaming, but again the average citizen is more concerned with the education of his children than with the risks of a Spanish Inquisition. And, in crass political terms, federal aid to education would pick up tremendous support among Catholics--most of whom do not send their youngsters to parochial schools, nor intend to do so, but who have been infuriated by what might be called the extreme Protestant doctrine of the emnity of church and state.

In higher education, of course, this has already been accomplished. The N.D.E.A. does not discriminate against Notre Dame or Yeshiva Universities. And the G.I. Bill of Rights left choice in the hands of the veteran, who could even attend theological school if such was his vocation.

Third, the Task Force nowhere deals with the Luddite mentality which dominates the teaching profession and particularly the schools of education. This mentality has led to a serious underutilization of existing resources, particularly those of trained women teachers who are married and have family responsibilities. I suspect a careful study would reveal that there are in the United States several million women, fully accredited teachers, who would be delighted to teach half-days, but are unwilling to take full-time positions. They could, for example, teach five mornings a week or five afternoons.

However, the organizations of teachers and administrators have resolutely objected to part-time teaching. It is administratively messy, and teachers, particularly those with Depression memories, look on part-timers as a threat to their status.

Moreover, federal aid in the form of salary assistance to teachers should be tied in with the establishment of qualitative standards. The analogue to the retraining program is relevant: federal fellowships should be established to enable teachers to retool, to catch up with the innovations that exist. Such a program would raise a fearful hue and cry among "security-conscious saboteurs" (to adopt a phrase of Veblen's), it would unsettle teachers and administrators and the inevitable charge of "political domination" would be made. But there is already "political domination" to one degree or another in public education; the real issue is whether the national government creates a greater political threat to the independence of teachers than do state governments and local school boards. I think the contrary is the case.

Finally, at the college and university level, why the emphasis on loans? Why should we not contemplate a massive program of scholarships and forget all the involved bookkeeping? The group of talented young Americans

that fails to enter college often needs, in fact, more than direct educational subsidization; it requires money to compensate for earnings that would otherwise go to the support of families. Thus the cost of an education at Brandeis for a brilliant boy from the bottom of the economic scale would be more than $10-12,000 for four years; it might involve an additional $3,000 a year for family support. There is an abyss between a boy such as this and one who needs an extra $1,000 per year above tuition to stay in school. A combination of scholarships for educational costs and loans to cover family obligations might make sense, but what youngster is ready at age 18 to consider borrowing $25,000 for his college education?

Last but not least, has the time not arrived for the establishment of a great national university in Washington, sponsored by the federal government? The Task Force in this respect is less innovative than John Quincy Adams.

A footnote on organization. The Task Force recommends a Department of Education separate from H.E.W. and a President's Council of Educational Advisors. To the extent that such changes would dramatize a massive assault on our educational crisis, they make sense. But I am not convinced that, in the absence of a vigorous policy, shifts in the T/O have any particular value. An able Commissioner of Education with presidential support and adequate funds could probably handle the task from his present bureaucratic location.

89th Cong

Statement by the AFL-CIO Executive Council

on

1965 Legislative Goals

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FYI

Washington, D.C.
November 24, 1964

The will of the people has never been more clearly evident.

On November 3, American voters overwhelmingly voiced their confidence in the social and economic structure that has been built, step by step, over the last 32 years.

They forthrightly rejected a radical assault on that structure.

They decisively proclaimed their desire to move on from a good present to a great future.

They gave their mandate to the program of progress President Johnson has called the "Great Society."

Now it is incumbent upon all who joined in that mandate to translate it into practical reality.

Basically, this means adapting the ideals and aspirations of the Founding Fathers of the Republic to the America in which we live -- America in the second half of the 20th Century.

The ideals and aspirations have not changed. Liberty, equality, opportunity are still the American dream. But the nation itself has changed to a degree that the wisest men of 200 years ago did not and could not have conceived.

-more-

The United States has burgeoned from a sparse scattering of farms and villages along the Atlantic Coast into a vast urban and industrial complex, spanning the continent, extending half way across the Pacific and reaching north beyond the Arctic Circle.

The 2½ million Americans of 1776 have become over 190 million today. Today's Americans -- most of them -- live in the city, not the country. They work in business and industry, not on farms. With the same unquenchable spirit, the same energy and the same ingenuity that characterized their forefathers, they have made the United States the richest and most productive land the world has ever known.

But for too many Americans this wealth and this production is a remote ideal. They do not share in it; they live in misery and want.

More than one in five of America's families suffer the indignities of unemployment, poverty and slums. America's major problem, unemployment, remains unsolved, despite the record 46 months of continuing rise of economic activities.

These ugly aspects of our social order will not simply disappear by the wave of a magic wand. Indeed, there is a danger that they can fester and poison our entire society.

The rising demands of our youth, of Negroes and of disadvantaged Americans of all races and creeds for jobs and economic opportunity cry out for positive responses. This is our challenge.

Today we have the opportunity to meet that challenge, to take, in 1965, a giant step forward on the road to a society that will enable all our citizens to realize their full potential. And this giant step forward can be taken through enactment of the measures the AFL-CIO has long urged.

These are not novel measures. They are not visionary measures. They are practical, down-to-earth measures.

They are far less revolutionary than the idea upon which this nation was built -- the idea that "all men are created equal." Yet they are essential if the goals of 1776 are to be realized today.

The only requirements are the courage, determination and imagination to support what needs to be done; to make a massive investment in America, one that this nation's immense productive potential can take in stride, one that truly brings within reach an end to poverty and deprivation in our time.

Let us first summarize our goals.

We believe in the total elimination of poverty in America.

We believe that this requires, first, jobs at good wages for all who are able and willing to work; and second, a social insurance program that protects young and old alike from the economic hazards which are no fault of their own.

We believe in full and equal opportunity, full and equal rights, for every American in every phase of life, regardless of race, creed, color or national origin.

We believe this equality can be brought about only if there is full employment.

We believe that free collective bargaining is an indispensable element in the search for economic justice and personal liberty for workers.

We believe in the wise use of America's riches to create a richer life for all Americans.

We believe that government, the instrument of the people, should use its powers to attack and to solve the people's problems.

We believe that progress toward these goals can be made in the 1965 session of the Congress by the measures set forth below.

Restoring Free Collective Bargaining

The importance of free collective bargaining to the living standards of workers and to the economic stability of the nation has been recognized for three decades; the encouragement of collective bargaining, through all this time and through all the changes in labor-management legislation, remains the stated policy of the United States.

Thus it is evident that free labor and free management should be able freely to agree upon mutually acceptable terms of employment. They should, therefore, be free to negotiate a contract making union membership a condition of employment.

Experience has proven the adverse effects of the unique provision of the Taft-Hartley Act making it possible for the states to forbid such voluntary labor-management agreements. Section 14(b) allows the states to outlaw the union shop as such, regardless of the wishes of the workers and their employers. It cedes a negative jurisdiction to the states in an area which the federal government has otherwise properly preempted.

This is an unwarranted intrusion upon the right of organized workers and their employers to negotiate mutually acceptable agreements. It offends the basic principles of federal-state relationships and should be repealed.

National Labor Legislation

There are other provisions of existing federal labor law that directly conflict with the established policy of the United States to further collective bargaining. These provisions restrict the right of workers to organize, to picket and to strike. They urgently require revision.

Three major bills relating to labor-management relations have been enacted since 1935. Some of their provisions overlap or are contradictory, causing needless complications, uncertainty and court appeals. We urge prompt action to eliminate inequities and resolve contradictions in basic labor-management law.

Social Insurance

The Social Security system's contribution to American life has touched virtually every family in the nation. Possibly more than any other social program, it has operated to ameliorate and prevent poverty. It has improved the quality of everyday life for millions.

The worst threat to old-age security today is the high cost of illness. The general design of a workable remedy became clear beyond doubt in the 88th Congress -- a national hospital insurance system based on social security principles for those over 65. Now the 89th Congress must implement what is unquestionably the will of the people.

To make Social Security truly effective in reducing poverty, substantial increases in cash benefits are also absolutely necessary -- for the retired, the disabled and for widows and dependent children. Adjustments in such benefits should also take into account that age 65 is in fact no longer a realistic age for retirement. As a minimum the actuarial reduction for early retirement should be modified.

There should be established a federal system of reinsurance for all private pension plans to assure the payment of the benefits provided such funds. Tax credit for employer payments into such pension plans should be contingent on participation in the reinsurance plan.

It has been clear for years that unemployment compensation must be freed from inequitable state limitations on weekly benefits, eligibility and duration of payments, and from inadequate financing. We have repeatedly asserted that a federal system of minimum standards must be enacted to enable unemployment insurance to fulfill its intended role of maintaining a strong economy and meeting the needs of those who are unemployed through no fault of their own.

Wage Hour Improvements

Since most Americans agree that there is no excuse for poverty in America, poverty among those who are fully employed at useful work must surely be regarded as intolerable. There must be no "working poor" in the richest nation on earth.

The Fair Labor Standards Act was designed to outlaw that kind of poverty. The time has come when it must be modernized to achieve that end.

Coverage of the Act should at once be broadened to include all workers whose jobs affect interstate commerce. The exclusion of millions, over many years, has been a disgraceful injustice and an economic absurdity.

The basic minimum wage should be raised to $2 an hour, simply to assure all employed workers of a standard of living above the poverty level.

The standard work-week should be cut to 35 hours, in line with the higher productivity of American workers.

The overtime penalty should rise from time and a half to double time, in order to discourage overtime and create new jobs.

Education

Every American child is entitled to as much education as he wants and can usefully absorb.

This is a basic to the American way of life and it is basic to the future of the United States as a nation.

Great strides were taken by the 88th Congress, but there are greater strides yet to be taken if this principle is to become a reality. They include:

1. A major program of federal aid to elementary and secondary schools to help meet all needs, including construction, in the categories of instruction covered by the National Defense Education Act. This should include construction grants for all schools.

2. Substantial federal aid to schools which serve large numbers of culturally-disadvantaged children from low-income areas, including work-study opportunities for vocational and high school students.

3. Comprehensive assistance, embracing scholarships, expanded student loans and work-study opportunities, for junior college and college students. The Cold War G.I. Bill of Rights would help meet this need.

4. We urge the appropriation of additional federal funds to foster the growth of community junior colleges.

Urban Problems

The great cities that only a generation ago were America's pride are now beset by problems that only expanded federal action can resolve. The decay of city centers is a shocking waste. The urgency of these problems grows daily, for every day the United States becomes increasingly an urban nation.

Ever since the early years of the New Deal this country has been pledged to the proposition that every American family is entitled to a decent home. That goal must still be met.

Public housing for low-income families has been shamefully neglected. A heavy increase in grants-in-aid is required to give reality to the fight against slums.

Low-cost, long-term loans must be more readily available to provide housing for those of moderate income.

These same needs should also be met in rural areas, but the problem is far more acute in the teeming cities.

Urban renewal in the broad sense must be stepped up, with emphasis on slum clearance and modernization, based upon community planning.

Special attention -- and assistance -- must be devoted to the thousands of families and small businesses which even now are dislocated each year by new highways, housing developments and other public projects.

Mass transit is a decisive factor in the future of urban life. The bill enacted by the 88th Congress must be reinforced by fully adequate appropriations.

All the foregoing can be expedited by the establishment of a Department of Housing and Community Affairs in the Cabinet.

Community Facilities

There has for years been a vast backlog of urgently-needed community facilities, from water and sewage systems to cultural centers and public buildings. A continuing federal program of grants-in-aid is essential to dispose of this backlog and keep pace with the mounting requirements of a rapidly-growing population. In addition, full appropriation of already-authorized funds is needed for the attack on air and water pollution and for the construction of highways, hospitals, other health facilities, college buildings, and airports.

This whole area is a classic example of the economic dividends that flow from social progress. As the nation invests in these facilities, it will also create huge numbers of useful jobs -- and therefore increase the number of consumers and taxpayers.

Regional and Resource Development

Experience under the Area Redevelopment Act of 1961 has demonstrated the need for a broader assault on chronic depression -- an assault that embraces a region rather than a single community. The proposed Appalachia program conforms to this need and it has our support.

There should be similar programs in other areas, based upon the concept of regional planning. Financial and technical assistance by the federal government can obviously be more effective on this broader base.

There remains the national challenge of conservation and development of natural resources. Such areas as water supply and river development, giant grids for the interstate transmission of electric power, desalinization of sea water, the preservation and maintenance of national forests and range lands -- and these are but a few -- require firm federal initiative.

Health Problems

The ever-accelerating advances in medical science hold forth the promise of long life and good health to a degree never before imagined.

The benefits of this astonishing progress must be made available to all Americans. But this cannot be brought about without legislative action.

There is still a pressing need for skilled personnel to man the hospitals and other health facilities already being built. This requires federal scholarships and other assistance to students in the health professions. Also among the essential areas of federal action are grants and loans for the operation of community mental health centers, construction of facilities for direct-service health plans based on group practice, and hospital construction and the modernization of existing hospitals.

War on Poverty

President Johnson's declaration of war on poverty has captured the imagination of America, and rightly so. It is fully consistent with the policy of the American labor movement, for poverty has been our sworn enemy since the first union was established.

Virtually every item in this present list of legislative goals is an attack on poverty. Many are direct, like wage-hour improvements; some are indirect, like conservation; but all contribute to the objective.

The war on poverty is already in progress and needs more support; specifically, it needs more money. We refer in particular to the Economic Opportunities Act and the Manpower Development and Training Act.

Tax Policy

There is general agreement that the federal tax structure needs improvement.

We support at this time the elimination of excise taxes that now apply to goods and services generally used by all Americans.

We further call for effective action against all tax loopholes.

We most vigorously urge a revision of the tax structure to ease the disproportionate burden on low income groups, and we insist on the elimination of income taxes imposed upon those who are at or below the poverty level.

We oppose the indiscriminate rebate of federal taxes to the states with no restrictions on the use of such funds.

Consumer Protection

It has been clear for a long time that the American consumer is at a serious disadvantage in dealing with sharp lenders and unethical merchants. A number of measures to aid the consumer that have already been proposed deserve enactment.

One is a simple requirement that an installment buyer should know how much interest he is really paying.

Another asks that packaged goods give a clear indication of what's inside, in terms that the buyer can understand without a slide-rule.

Others reinforce the work of the the late Senator Kefauver on drugs and drug prices.

We also propose a federal consumer information service to help buyers meet the complexities of today's marketplace.

We cannot understand why any reputable merchant or manufacturer should oppose these simple ground-rules. They are consistent with the principle of free competition. Similarly, we oppose all forms of "fair trade" laws, under any name, that are designed to maintain monopoly price-fixing.

Migratory Labor

Migrant farm workers have long been the most painfully exploited people in America, whether they were citizens or imported visitors.

The AFL-CIO was gratified when Congress put an end to the importation of Mexican farm laborers under Public Law 78. We are appalled to learn that some large agricultural interests are making efforts to continue the same program under Public Law 414. This is clearly contrary to the intent of the Congress and it must not be allowed to happen.

Moreover much remains to be done for American migratory labor. Congress should provide minimum wage standards for migratory farm workers, include them under the unemployment compensation system, strike out their exemption from the protection of the general labor laws, assure them of adequate housing and health services and see to it that their children have full and equal educational opportunities.

Foreign Trade and Aid

The AFL-CIO has amply demonstrated its commitment to the principle of trade expansion.

We have also stressed that trade expansion will continue to command broad national support only if accompanied by a mechanism to protect workers and businesses adversely affected by increased imports.

The present law contains a mechanism but it has yet to work. Unless it can be made to work, it must be replaced by one that does.

The incorporation of fair labor standards in international trade should be an integral part of United States trade policy.

The foreign aid and economic assistance programs have also had the whole-hearted support of the labor movement since their inception. While we believe private American investment in developing nations is desirable, it can only be a supplement, not a substitute, for government help. Moreover, while the United States government should make sure that funds provided for specific projects are spent efficiently, it should fully respect the right of aided nations to determine their own forms of economic control and ownership. The use of American flag ships in transporting materials used in aid projects and indeed in all aspects of our export-import commerce must be expanded.

The principles of the Alliance for Progress should guide American aid undertakings in Africa and Asia. The United States should also seek joint efforts with other democracies in both civilian and military assistance projects in new and emerging nations.

Conclusion

Inevitably there will be those who ask what all this will cost; who question whether the nation can afford a better life for its people.

There is a two-fold answer.

The first is that America cannot afford anything less. Poverty, unemployment, discrimination and ignorance are intolerable in a society that has the resources to wipe them out.

Second, what we are proposing is a massive investment in the future of the nation -- an investment the country can easily afford, and one that is essential to its destiny and to the future of freedom on earth.

Our view would be more easily understood if the United States like other western nations adopted a capital budget -- an accounting that truly distinguishes between costs and investment. The federal government's accounts should separate housekeeping costs and national security outlays, on the one hand, and on the other, the sums used to create, improve or acquire assets, or advanced as recoverable loans. This is the general practice in private business, in many states and cities, and even in well-run individual households.

Nearly all our proposals for 1965 involve federal outlays which are in the investment category. And we believe they are investments this country dare not refuse to make.

We believe in the Great Society. We believe in it, not just as a dream, but as an attainable reality. We do not want a Great Society just for union members, or just for wage-earners,

but for all -- for every American, and indeed for all mankind.

The goal is within reach. Our own nation is rich, productive, and prosperous as never before. Human knowledge is every day expanded into new areas. The aspirations of 2,000 years are within our grasp.

MAY 18 REPORT ON [89TH Cong.]

STATUS OF THE PRESIDENT'S LEGISLATIVE PROGRAM

Bills in the President's program which have become law:

1. Agricultural Supplemental Appropriations - $1.6 billion
2. Second Supplemental Appropriations for 1965 - $2.2 billion
3. Supplemental Appropriation for Vietnam - $700 million
4. Aid to Appalachia - $1.1 billion
5. Chancery Appropriation, Saigon - $1 million
6. Coast Guard Authorization - $114.2 million
7. Coffee Agreement
8. Disarmament Act Authorization - $30 million
9. Elementary and Secondary Education Bill - $1.3 billion
10. Extension of Food Marketing Commission
11. Gold Cover, Repeal of the 25 Per Cent Banking
12. Inter-American Development Bank Increment of Contribution
13. Manpower Training Act Expansion
14. Military Procurement Authorization
15. Tobacco Acreage-Poundage Marketing Quotas

Bills in the President's program which have passed both the House and Senate, but are in conference:

1. Community Health Services Extension
2. Presidential Inability
3. River Basin Planning
4. Water Pollution

Bills in the President's program which have passed the Senate but not the House:

1. S. 22 - Water Research Act Expansion
2. S. 28 - Stockpile Management and Disposal
3. S. 491 - Bighorn Canyon Park
4. S. 507 - V.A. Distressed Home Owners' Relief
5. S. 1135- Reorganization Act Extension
6. S. 1229 - Federal Water Project - Recreation Act

Bills in the President's program which have passed the House but not the Senate:

1. H.R. 2 - Drug Abuse Control Bill
2. H.R. 2985 - Initial Staffing Community Health Centers
3. H.R. 3708 - The Older Americans Act
4. H.R. 4185 - Increase in the Patent Fee
5. H.R. 5075 - Increase of Loan Insurance in the Farmers Home Administration

6. H.R. 6453 - D.C. Appropriations

7. H.R. 6497 - Quota Increase in the International Monetary Fund

8. H.R. 6675 - Medicare

9. H.R. 7060 - Treasury and Post Office Appropriations

10. H.R. 7717 - NASA Authorization

11. H.R. 7765 - Labor and HEW Appropriations

12. H.R. 2984 - Health Research Facilities Act of 1965

13. H.R. - Independent Offices Appropriation

Bills in the President's program presently on the Senate Calendar:

1. S. 1564 - Voting Rights (also H.R. 6400)

2. S. 1837 - Foreign Aid Authorization (also H.R. 7750)

3. H.R. 6767 - Interior Appropriations

4. United Nations Charter Amendments

Bills in the President's program on the House Calendar:

1. H. Res. 347 - Reorganization Plan of the Bureau of Customs

2. H.R. 6927 - Housing and Urban Development Department

3. H.R. 89 - Tocks Island

THE PRESIDENT'S PROGRAM IN THE COMMITTEES

Agriculture -

S. 1702 and H.R. 7097 - the Omnibus Bill. The House Committee has finished hearings on all titles except Title VI, the acreage allotment transfers. There has been informal Subcommittee action on the wheat and feed grains programs. There is expectation that the cropland retirement program (the old Soil Bank) title will be written into the wheat and feed grains sections to make it applicable to just these titles. The cotton program is just getting underway. There is no final Committee action expected on this bill in the House for at least another month. The Senate Agriculture Committee will not take up the bill at all until after Voting Rights; then, it will start hearings. This could well be one of the last bills out of the Senate this year.

H.R. 5075- Increase Loan Insurance in the Farmers Home Administration. This bill passed the House on March 15. Hearings have been concluded in the Senate Committee. An executive session will be held within a week or ten days on this bill.

S. 1812 - The REA - Loan Account Bill. No action at all has been taken on this bill.

S. 7 - Spruce Knob - Seneca Rocks Recreation Area. The Senate will be working on this bill in executive session and full committee this Wednesday. There are five bills in the conservation and forestry area which will be ready for this meeting. There has been no action in the House on this yet.

The following points in the President's program have not been drafted or have not been sent to the Committees yet:

1. Agricultural chemical controls.

2. Commodity exchange regulations.

3. Meat and Poultry Inspection Bill - user charges

Agricultural bills in the President's program becoming law:

1. Tobacco Acreage-Poundage and Marketing Quotas

Appropriations -

The following appropriations have passed the House: D.C., Independent Offices, Interior, Labor, HEW, Treasury, Post Office.

The following appropriations have passed the Senate: Independent Offices.

The House will report the Agricultural Appropriations on May 20, and floor action is expected on May 25. Foreign Operations Appropriation will be reported on June 17, but floor action will have to wait on the Authorization Bill. If this is done in time, floor action is scheduled for June 22.

The House Committee will report the Military Construction Appropriation on June 3. Again, the Authorization measure will probably not be ready by then and floor action on the Appropriation will have to wait.

The House will report the Public Works Appropriation on June 10, and floor action is expected about five days later.

The Defense Appropriation was due on May 13, but the bill is still in the Committee waiting for the Authorization which is anticipated in early June.

Appropriations for State, Justice, Commerce, and Judiciary will be reported on May 27. Floor action is scheduled for June 1.

The Senate Committee has the Interior Appropriation on the Senate calendar. Other appropriations will be coming soon from the Senate Appropriations Committee.

Armed Services -

S. 1771 and H.R. 5885 - Military Construction Authorization. The Senate Committee has finished its hearings, and the bill is ready for mark-up. The Senate may wait for the House bill; this is not definitely decided yet. There seem to be no problems on the Senate side.

The House Armed Services Committee expects final Committee action in early June. The Committee is running into difficulty resolving all the concern of the members with the measure because of the problems posed by the shipyard closings.

S. 28 - Stockpile Management and Disposal is in the Philbin Subcommittee, and there is no scheduled action.

Although not part of the President's program, H.R. 7596, Air Force promotions, passed the House yesterday on the suspension calendar.

Banking and Currency -

S. 1332 and H.R. 7105 - Export Control Act Extension. The bill is in the House Subcommittee. There are problems relating to exports to Egypt. These are the same forces which opposed the first Supplemental Appropriation in February. The Senate Committee has done nothing with the bill yet. The Senate will hold hearings on the Arab boycott next Monday and Tuesday, May 24 and 25.
H.R. 5840 and S. 1354 - the Omnibus Housing Bill.
On the Senate side, the Subcommittee is marking up the bill and they finish today. We may have to wait until the first or second week of June to get the bill to full committee.

The House full Committee on Banking is in executive session on the bill. It will be reported out on Wednesday, tomorrow, May 19. It will then be ready for action on the floor in a week or two.

The SEC fee increase is not moving in either the House or the Senate. This is Bill No. S. 1707 and H.R. 7169.

H.R. 111, the Truth in Lending Bill, is resting in the House Committee and waiting for action in the Senate. As of this moment, there has been no bill introduced in the Senate yet.

S. 507, the V.A. Distressed Home Owners' Bill, has passed the Senate and is resting in the House Veterans' Affairs Committee. Although not part of the President's program, H.R. 5305, the bill relating to the foreign interest rate discrimination, has been reported out of the committee and a rule will be requested next week. This bill is part of the effort to restore our balance of payments.

Also, H.R. 107, the Bank Supervisory Bill, although not part of the President's program, will be reported to the full committee this month. This bill puts all bank regulation within one agency.

H.R. 6927, and S. 1599, the Department of Housing and Urban Development Bill, has been reported. Again, we should report that there is strong opposition within the staff of the Banking and Currency Committee to bringing this bill up in the House before the Omnibus Bill. They estimate that many votes will be lost on the Housing Bill if the Urban Department measure is brought to the floor first.

The Senate Government Operations Committee is resuming hearings on the Department of Housing and Urban Development Bill tomorrow and Thursday. It is expected that the bill will be reported by mid-June.

Commerce -

S. 1588 and H.R. 5863 - High Speed Ground Transport. The House Interstate Committee starts its hearings on Wednesday. They expect to finish on June 27. The Senate Committee will hold its hearings on June 14 through June 16.

S. 985 and H.R. 1664 - Truth in Packaging. The Senate Committee has scheduled hearings from April 28 through May 7. Also there are hearings going on today. There are problems with this bill in the Senate, although it is anticipated that some bill will come out of the Committee. The House Judiciary Committee has not moved at all on the bill.

S. 1875, the User Fees on Vessels, is not moving at all in the Senate or in the House.

Bills in the President's program which have not been sent to the Committee are:

1. The Maritime Policy Revision

2. Transportation Policy Revision.

District of Columbia -

H.R. 6889 - the Federal Payment and Loan Authorization. This bill is pending in the House Subcommittee. Hearings have been held on the measure. The Senate Committee has the contents of this bill in with their Home Rule Bill. They will probably pass this as part of their Home Rule Bill.

S. 1632 and H.R. 6745 - Firearms Control Act. The House has not moved at all on the bill, but the Senate Committee has held hearings on the bill. The bill will go into executive session in a few weeks. There are problems with the bill, and there is a strong possibility that the bill will not get out of committee. There has been a great amount of letter-writing sent in on the bill.

S. 1612 and H.R. 7395 - Higher Education Bill in D.C. Senator Morse has this bill in his Subcommittee and has taken no action yet. The problem mainly is the scheduling of the bill into Senator Morse's personal schedule. He has been working hard on the Higher Education Bill in his Subcommittee on Labor. Hearings will probably not be held in the Senate for another month yet. The House is not moving at all on the bill.

S. 118 and H.R. 4644 - Home Rule. The Senate Committee has concluded hearings and expects to report the bill this week. The House Committee has not moved at all on the bill, and there will probably be very difficult problems in getting it up out of the House Committee.

S. 1719 - the Overtime Pay for D.C. Police Bill, will come out of the Senate Committee this week. The House does not even have a bill on this yet.

S. 1117 and H.R. 4822, the Rapid Rail Transit in D.C. Bill, is now before the full Committee in the House. There is a possibility that the Senate Committee might hold hearings just prior to House passage of the bill.

H.R. 7066 - Revenue for D.C. The House Committee is now holding hearings on this bill and three other revenue bills. No action has been taken yet in the Senate.

Finance -

H.R. 7368 - Extension of Duty-Free Limitation Bill, is in the House Ways and Means Committee where the Committee reported the bill yesterday. It will file its report in two days. There is no action in the Senate on this yet.

Executive mark-ups will start in a week or two on the Excise Tax Repeal.

H.R. 6675 - Medicare. The House passed the bill on April 8, and the Senate finishes its hearings on the bill tomorrow. The Committee goes into executive session on the bill next week.

H.R. 6960 - the Implement Agreement with Canada on Auto Parts. The House Ways and Means Committee concluded hearings on the bill. The bill will be sent to the floor after the excise cut and the debts ceiling increase.

H.R. 4754 - the Extension and Broadening of the Interest Equalization Tax Bill, is in the House Ways and Means Committee where nothing has been scheduled.

S. 1591 and H.R. 6629 - the National Firearms Act. This bill in the House Ways and Means Committee is not moving at all. The bill looks as though it may have great trouble getting out of the Committee. This is also true on the Senate side where no action has been taken. The bill is in real trouble.

H.R. 5916 - the Removal of Tax Barriers to Foreign Investment in the United States. This is presently in the House Ways and Means Committee where no action has been taken.

Points in the President's program which have not been sent to the Hill are:

1. Investment Tax for Less Developed Countries
2. Tax Exempt Privileges of Private Foundations - the Removal Thereof
3. Unemployment Insurance Improvements

Foreign Relations -

H.R. 2998, the Disarmament Act Authorization, has been adopted in conference and sent to the President.

H.R. 7750 and S. 1837, the Foreign Aid Authorization, is on both the House and Senate calendars. The House has a hearing for a rule this Thursday. Floor action is expected on May 24, next Monday.

H.R. 6497 - the Increase of the International Monetary Fund Quota, has passed the House and will be reported today by the Senate Foreign Relations Committee.

S. 1368 and H.R. 5876 - the Peace Corps Authorization, is in the mark-up stage in the Senate Committee. It is on the agenda for the Foreign Relations Committee meeting today. The House Committee starts hearings on May 27.

The United Nations Amendments to the Charter is on the Senate calendar.

S. 1903, the United Nations Participation Act Amendments, will follow the Peace Corps Authorization.

Government Operations -

S. Res. 102 and H. Res. 347 - the Bureau of Customs Reorganization Plan, is on the House calendar with an adverse report. The Senate Committee expects to finish its hearings by this Friday, May 21. Senator Ribicoff is drafting a report, and action is expected sometime this week. Of course, the House will proceed first on the matter. The real problem with this plan is the cumulative effect it is having on individual Congressmen in relation to patronage. Otherwise, there seems to be no concerted effort against it.

S. 1135 and H.R. 4623, the Permanent Reorganization Authority, has passed the Senate and is on the House calendar.

Interior -

S. 20 and S. 1121 - the Assateague Island National Seashore Bill - is in the Senate Subcommittee and should be out of the Subcommittee in the next two weeks. It will be before the full committee before June 10, and the project does look favorable. Field hearings in the House are scheduled for June 12.

S. 491 - Bighorn Canyon National Recreation Area in Montana and Wyoming, is not scheduled yet in the House. The Senate passed the bill on February 10.

H.R. 5629 and S. 1229 - the Federal Water Project - Recreation Act, passed the Senate on April 9 and is on the House calendar for today. Action will be taken on the bill today on the floor of the House.

H.R. 51 and S. 360 - Indiana Dunes - is expected to be taken up in the Senate Committee on June 10. It should go out of the Committee without amendments. There is nothing scheduled in the House on the bill. It is vigorously opposed by the Inland Steel Company and Charles Halleck.

S. 1446 - the National Wild River System - is in the Senate Committee where field hearings are being held this week. It will be a long time before this bill is passed. The House does not even have a bill introduced on this subject yet.

S. 21 - River Basin Planning Authority, is in conference.

S. 24 and H.R. 7092 - Saline Water Research and Development Authority - is in the Senate Committee where hearings have been held. The House Committee is holding hearings this week. Full Committee action is expected in the House in about two weeks.

S. 1761 and H.R. 7406 - the Third Power House at Grand Cooley - is in the Senate Committee where action is hoped to be early. It is not sure when the Executive Committee will bring the bill up, but the Committee wants to move

the bill rapidly. There is nothing scheduled on the bill in the House.

H.R. 89 - Tocks Island - has been reported in the House. A rule will be requested in the next two days. The Senate Committee will wait for House action. It looks as though the bill will probably get through this Congress all right.

S. 22 and H.R. 3606 - Water Research Act Amendments - has passed the Senate and is in the House where nothing is scheduled. The bill is bottled up by Committee provision to review the Administration's program before they will re-authorize it. This battle is apparently between Interior Department and the Committee.

H.R. 797 - Whiskeytown-Shasta-Trinity National Recreation Area - is in the House Interior executive session. There is no bill yet in this area in the Senate.

Atomic Energy -

S. 700 and H.R. 3597 - the AEC Authorization, is being marked up in the Senate Committee, and the House expects action within the week.

Judiciary -

S. 1240 and H.R. 5280 - Balance of Payments - is in the House Subcommittee where hearings have been concluded. There has been no action in the Senate yet on the bill.

S.J. Res. 58 and H.J. Res. 278 - Electoral College Reform - has not been acted upon in either the House or the Senate. This looks as though nothing is going to happen on this this year.

S. 500 and H.R. 2580 - Immigration Revision. The House Bill is in Mike Feighan's Subcommittee. The bill is not moving at all, and may not move in the House Committee unless some real pressure comes from downtown. The Senate Committee will resume its hearings when the Voting Rights Bill is completed. Senator Kennedy plans to move quickly on the bill.

H.R. 4185 - the Patent Fee Increase - passed the House on March 17. The Senate Subcommittee approved the bill, and the bill is now in full Committee which will not meet until the Voting Rights has been passed.

S.J. Res. 1 - Presidential Inability - is in conference. The conferees meet today on the bill. The House is determined to get their version.

S. 1792, 1825 and H.R. 6508 - State and Local Law Enforcement Assistance - is not moving at all in the House. The Senate Judiciary has set up an ad hoc Subcommittee composed of Senators Ervin, Hart, Ted Kennedy, Tydings, Hruska, and Javits, to handle the bill.

S. 1564 and H.R. 6400 - Voting Rights Act of 1965 - is on the floor of the Senate where it is estimated that action should be completed within a week. The House bill has been reported but not filed with the Rules Committee.

Labor -

S. 600 and H.R. 3220 - the Higher Education Bill - is in the mark-up stage in the House Labor Subcommittee. The bill will be sent to the House full Committee this Thursday, May 20. Senator Morse's subcommittee is handling the bill in the Senate where hearings have been recessed. It will probably be about the first or second week in June before this bill gets out of committee.

S. 510 - Community Health Services Extension - is in conference.

H.R. 2985 - Community Mental Health Centers - has passed the House and work is being done on this bill in the Senate.

H.R. 2 - Drug Abuse Control Act - passed the House on March 10. It appears that now Dodd will not insist on hearings for his amendments he is proposing in the Subcommittee.

S. 508 and H.R. 2987 - Group Practice Facilities Construction - is not moving in either the House or the Senate. This bill is in serious trouble because of a jurisdictional dispute between the House Interstate and House Banking Committees. In addition, the Senate is not very enthusiastic for the bill because it contains loans for private physicians which many deem hard to justify.

S. 595 and H.R. 3141 - Health Professions Educational Assistance Amendments of 1965 - is not moving in either House. The Senate is waiting for the House, which has done nothing yet.

S. 512 and H.R. 2984 - Health Research Facilities Amendments of 1965. The Senate Committee recommitted the bill to the Subcommittee for further consideration of the Long Amendment. This problem is now being to be worked out in Committee.

S. 597 - Medical Library Facilities - is not moving in either House.

S. 1400 and H.R. 6881 - Mental Retardation Facilities and Community Mental Health Centers Construction Act - is not moving in the House. The Senate is holding hearings on the bill.

S. 596 and H.R. 3140 - Regional Medical Complex Act of 1965 - is not moving in the House. The Senate concluded its hearings and is trying to work out the Long Amendment problem.

S. 1525 and H.R. 6476 - Vocational Rehabilitation Amendments.- Senate hearings concluded and printed. The Senate is waiting for House action on the bill. The House Labor Subcommittee approved a clean bill.

S. 1566 and H.R. 7177- Extension of the Juvenile Delinquency Program - has been approved in the Senate Subcommittee. Full Committee action is expected next week. The House Labor Subcommittee has completed its hearings.

S. 1483 and H.R. 6050 - the National Foundation of the Arts. The Senate Subcommittee has concluded hearings on this, and the bill is ready for the next full Committee meeting. The House Labor Subcommittee also has approved the bill and is awaiting full Committee action.

H.R. 3708 - the Older Americans Act - has passed the House. The Senate Subcommittee has approved the bill, and it is waiting for full Committee action.

S. 1759 and H.R. 7048 - the Extension and Amendment of the War on Poverty - is in the Senate Committee waiting for House action. The House Labor Subcommittee has passed the bill.

Public Works -

S. 1648 and H.R. 6991 - ARA Amendments - Public Works - Economic Development Bill. The Senate Committee has reported the bill, and it is now on the Senate calendar. The House is still in executive session on the bill. It will conclude this by next week.

S. 306 - Clean Air Amendments - is in Subcommittee executive session. No action has been taken in the House on the bill yet.

S. 4 - Water Pollution Control - has passed both the House and the Senate and is now in conference.

Parts of the President's program which have not been sent to the Hill yet are:

1. Advertising and junkyard control along highways.

2. Highway beautification.

Space -

H.R. 7717 - NASA Authorization - has passed the House and the Senate has ordered the bill reported.

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