EXECUTIVE SESSION

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CONSIDERATION OF CATASTROPHIC HEALTH INSURANCE

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WEDNESDAY, JUNE 27, 1979

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United States Senate,

Finance Committee,

Washington, D.C.

The Committee met at 9:20 a.m., pursuant to notice, in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long, Talmadge, Ribicoff, Moynihan, Baucus, Boren, Bradley, Dole, Danforth, Chafee and Durenberger.

Chairman Long: We are pleased to have with us this morning the Senator from Pennsylvania, Mr. Richard Schweiker. He was not available to testify on this proposal when we visited on earlier occasions. We are delighted that the Senator can be with us today to tell us about his proposal.

I have had very considerable indications of interest in the Schweiker bill and I would like to know more about it and I am sure our members would also.

Senator, we are very delighted to have you here to explain your proposal.

STATEMENT OF THE HON. RICHARD S. SCHWEIKER

UNITED STATES SENATOR FROM PENNSYLVANIA

Senator Schweiker: Thank you very much, Mr. Chairman and members of the Committee.

As a ranking Republican on the Senate Committee on Labor and Human Resources and its Health Subcommittee I have a deep interest in the complex issues you consider at these hearings.

In the past few years there has been a considerable shift of opinion on the subject of national health insurance. I believe we now face the prospect of legislating in this area under very different political and economic conditions than have existed in the past.

In a nutshell, the public is now more skeptical of government solutions, less willing to spend billions of scarce dollars through a leaky Washington pipeline and increasingly aware that health care reform has advanced to a point where targeted private incentives will do more good than sweeping new government programs.

In light of this new perspective on national health insurance I have restudies the problems facing our health care delivery system and offered a new proposal on this subject. With your permission I would like to submit a detailed description of this proposal for the record, Mr. Chairman. I will then summarize my proposal briefly.

Chairman Long: Without objection, it is so ordered.

(The document follows:)

COMMITTEE INSERT

Senator Schweiker: First I would like to emphasize my belief that the focus of any national health insurance legislation should be catastrophic benefits. This is the area of greatest need. Approximately 90 percent of the population has some form of health insurance but up to 40 percent lack catastrophic protection. While the incidence of catastrophic illness is low, fear of its devastating impact is widespread. Unpredictably large medical bills are probably the darkest cloud over every American family budget. This is particularly true among our elderly citizens who typically have higher medical expenses than other segments of the population but whose Medicare benefits run out at relatively low levels.

The problem can be solved at a relatively low cost to either the government or the private sector. Catastrophic benefits can be added to an existing health insurance policy for only a few extra dollars per month. My calculations show that adding catastrophic protection to Medicare would cost less than one billion dollars per year.

I would join you, Senator Long and Senator Dole and other members of the Committee in your commitment to singling out catastrophic health insurance as a target for health insurance legislation. We should do what is doable and I congratulate you, Mr. Chairman, on seeing your long held views on this matter vindicated.

I would condition my support for any catastrophic measure

on it containing three essential elements.

First, it should utilize the private sector as much as possible rather than establishing a new federal regulatory program. With respect to mechanics, I would advocate the employer mandate approach such as that contained in the Dole-Domenici-Danforth or in Senator Long's bill, S. 760.

My own proposal calls for requiring that any tax deductible or tax excludable employer health insurance plan contain complete protection against all medical expenses in excess of 20 percent of adjusted gross family income. Employees of firms with less than 50 employees would be covered through state administered pooling arrangements so that small business would not be unduly penalized, as would uninsurable risks and others without access to private or government plans.

The elderly would be given catastrophic insurance through Medicare by revising the current deductibles and co-payments to ensure that all expenses over 20 percent of income would be covered.

I remain flexible on the details of this approach since many complexities are still being uncovered as we proceed with the drafting of legislative language.

Second, catastrophic benefits should not be provided without cost containment devices and systems reforms. Escalating medical costs are a primary reason behind the

demand for catastrophic benefits yet catastrophic benefits without cost constraints will further stimulate cost escalation. To prevent catastrophic reforms from undoing themselves, we need to attack the heart of the problem, a third party reimbursement system subsidized by federal tax dollars that is non-competitive and too heavily oriented toward providing first dollar insurance coverage used primarily for short term hospital care.

Regulatory solutions such as the President's proposal will not solve the cost problem with or without catastrophic health insurance. What is needed are specific steps to encourage competition in health care and to encourage the patient to become more involved in hospital service pricing decisions. Rather than foster more regulation by the government, we need to introduce permanent incentives into the system so that doctors, hospitals, patients and insurance companies become effective participants in a price competitive market.

I propose the following cost containment steps. To encourage competition I would require as a condition of tax deductibility of health plan contributions that an employer be required to make the same dollar contribution for all health plans he offers. If an employee chooses a plan which has a lower cost than his employer contribution level, the employee would have to get back the difference from the employer tax

free. In addition large employers including the government would be required to offer at least three health plans to their employees.

Under current practices the employer usually chooses a health plan for his employees. Passing this choice and mandating this choice through to employees as my proposal would require will allow market forces to go to work within the employee groups. Employees can compare notes and force lower costs and premiums, improved benefits and clearer informational materials. They can choose between one of three competitive systems. The rebate mechanism will give employees a financial stake in the efficiency of their system and a reward for being prudent and financially responsible.

To encourage patient cost sharing I would add the following element; all employers would be required to make available to their employees a plan with an annual co-payment rate for hospital services of at least 25 percent effective until medical expenses exceed the 20 percent of adjusted family income when your catastrophic would take over so nobody would be unduly penalized. No one would be required to enroll in such a plan.

If 41 percent of the population and that is based on a study by the University of California who had a similar plan, did choose this option as a result of lower premium costs and tax free rebates from employers, the Federal Government would

save $2.5 billion per year and the private sector would save $4.3 billion without additional regulatory caps.

Testimony by noted health economists such as Professor Martin Feldstein, Harvard Economic Professor as well as head of the Bureau of Economic Research, substantiates the cost savings potential of this approach as a result of reduced utilization and reduced wastes.

Studies also show that it should not affect quality of care if it is appropriately linked with ability to pay. In other words, Mr. Chairman, every company should be required to get three competitive bids. One of those bids must have a 25 percent co-payment feature. If an employee elects a 25 percent co-payment feature, he would get a rebate because this is a cheaper form of insurance. He would get the rebate tax free because he is self insuring at this point. He is contributing to lower the utilization rates. He is contributing to less use of the system and he gets a financial reward because of it. It costs no more because it would be cheaper than the other forms of insurance that the company now buys.

Finally, Mr. Chairman, I believe that catastrophic benefits must be coupled with specific health promotion disease prevention benefits. Prevention is the most effective method for cost containment and improved health status. The cost of prevention itself is usually extremely low relative to

the cost of medical care for the disease in question.

My plan would condition tax deductibility of health plan expenditures on the inclusion of the following benefits; comprehensive maternal care; well baby clinic services; childhood immunizations; hypertension screening which very recently has shown a marked decrease in heart attacks and arteriosclerosis rates, something very cost effective in terms of investing in health dollars; pap tests for cervical cancer screening and periodic physical examinations.

I should add that the definition of qualifying benefits should probably remain somewhat flexible in actual legislative language in order to allow innovation and market forces to refine the state-of-the-art in this area.

The total annual fiscal impact of my plan combining cost containment, catastrophic insurance and preventive health care is estimated as $0.2 billion savings to the Federal Government; $0.5 billion savings to state and local governments; $3 billion savings to the private sector for a total savings to our health care system as a whole of about $3.7 billion.

In closing, Mr. Chairman, I congratulate the members of this Committee for the direction they are taking in seeking to improve catastrophic protection for our citizens. If you combine this effort with market incentives and preventive health benefits I believe we can save as much or more than the

Administration's bill would have without massive regulation. We can use these savings to make enduring improvements in the health insurance benefits program where they are most needed.

In closing and in thanking you for this opportunity, it would be a great loss if we did not take advantage of this unique opportunity to try to reform our system while we are adding new benefits to it as opposed to just adding new benefits to the system and letting all the old problems reoccur and come back to haunt us in five or ten years.

Thank you very much.

Chairman Long: Thank you very much, Senator Schweiker.

Senator Moynihan?

Senator Moynihan: You might be interested, sir, that clearly from the witnesses who have invoked the largest responses from the Committee have been those who have spoken directly to your point although none quite so concisely that this is an opportunity to reform the system at the same time we expand it.

There seems to be a very wide range of concensus that the problem with the existing system is it provides almost no incentives to contain costs. To the contrary, all the parties except possibly the patients benefit by expanding the cost system.

There is evidence in parts of the health system that patients begin to receive less than optimum medical care

simply because they are put in the hospital when they ought not to go into the hospital. It serves the interest of everybody else that they should. I think your point is very clear here.

I was struck by one matter we are going to be bringing up later, the question of an adjustable scale for persons at low income levels in terms of what constitutes catastrophic costs for them.

Would you go over once again your suggestion on this point?

Senator Schweiker: Yes. Thank you, Senator Moynihan. It would simply provide that your catastrophic plan takes over after you reach 20 percent of your adjusted gross income. This provides for somebody who is maybe getting by on the minimum wage or even less.

Senator Moynihan: You would not have a flat deductible, that might mean 60 percent of somebody's income.

Senator Schweiker: I think it is most fair because that way somebody who is earning $100,000 a year, he can well afford to pay three or four times the catastrophic coverage of somebody earning $8,000 or $10,000. The advantage of it is if somebody is earning the minimum rate, $6,000 to $8,000 a year, 20 percent of that, he is wrecked after that. There is no way he can recover if you put a 60 day feature or a $5,000 feature on it.

I think it is a fair system. It is a little more complex. If you use a certain line of your income tax or something like that, it would not be too debatable.

Senator Moynihan: It is the concern of many of us here that this be a one class system. It is obviously the case that you can take low income people and if they go bust on medical care costs, they can go to Medicaid. That is going on welfare. Many of us on the Committee do not want that. We want to keep everybody in this system who is employed and do it by an adjustable scale such as you suggest.

Would you agree that is a good principle?

Senator Schweiker: I think it is. I think my formula would tie in completely with that philosophy.

Senator Moynihan: Yes. I thank you. That will be the last precise testimony we will get today and it was a good way to start.

Senator Talmadge: Mr. Chairman, I have only one question.

Senator Schweiker, my apologies for coming in late. I did not get to hear all of your testimony. I heard a portion thereof.

Do you have an estimate on the costs?

Senator Schweiker: Yes, sir. This comes out with a net gain rather than a loss, Senator Talmadge. Astounding as that is, there are some pretty good health economics behind it.

Professor Feldstein of Harvard, an Economics Professor and also President of a very well known economic thinktank, the National Bureau of Economic Research, in estimates of studies and he has published a study on this which is available, it says that for every time we increase the out of pocket costs that a patient has to pay by one percent, that he has to pick up the bill on and not the health insurer, there is a decrease of 50 percent of those costs because the fact that he is paying the bill as opposed to somebody else, he is more selective and demands less.

He cites a number of studies where he can show that if you increase the out of pocket costs that a person pays, the net effect is a 50 percent decrease in utilization of services and in the costs and prices he eventually deals with.

That is the whole thesis of this argument. Right now people who insure for example are getting about 18 percent. The average of private insurance and not Medicare is that you are paying 18 percent of your cost sharing on the average, your cost share in the hospitalization program.

My plan would take it to 25 percent. From going from 18 to a quarter which is the key feature of my plan, you are adding seven full percentage points to what the patient has to pay.

The reason it is feasible is we give a rebate to the employer who is willing to take that self insurance. In other

words, we require an employer to have three plans. One plan must be this 25 percent co-insurance. That is the cheaper plan. In the University of California it is $63 a month cheaper. A lot of people without an incentive at the University of California bought the plan because they are saving $63 a month on premiums. They were willing with the incentive of $63 a month cheaper insurance to insure themselves.

I am not even presuming that. They had a 35 percent participation rate. I am saying since it will cost the employer less money, let's pocket the difference to the employee and if the employee takes option three which is cheaper and saves the company money, let him get the difference between the cheap 25 percent co-insurance plan and the full dollar coverage and let him get it tax free. It is not costing the government money anyway because the government did not have that money in the first place. It is tax deductible. It is not costing the employer any more. The employee gets an incentive to insure himself.

The whole argument here which Professor Feldstein's study shows is by increasing the person's percent of paying his own bill and the price impact of that and the competitive impact of that, your costs will be reduced proportionately because less people use the system.

It is the old story of a free lunch. In other words, if

everybody has a free lunch, you are going to order everything on the tray and the table or the booth. If you are paying 25 percent of that free lunch, you are going to be a lot more discriminating in what you do. That is why the impact is not high at all and in fact it is a plus.

Chairman Long: Senator Chafee?

Senator Chafee: Senator, I would like to join in Senator Moynihan's comments about the brevity with which you presented this and what excellent ideas there are in it.

Patient cost sharing and the whole idea of competition has certainly rung a bell in this Committee.

Let me just ask you a question on the patient cost sharing. Suppose the employee is currently a member of a plan that provides catastrophic coverage like he is working for General Motors and it covers the basic plus the catastrophic. I suppose General Motors would fall under your category that they would have to be required to offer at least three health care plans to their employees.

Senator Schweiker: Every employer would. We provide special help to those with 50 or less employees so that small business does not have an impact. Every employer as part of his tax deductible approval would have to have three competitive plans that their employees could choose from and one of which has to be a 25 percent co-insurance plan. The other two can be anything. They can be HMO's or regular

insurance plans.

Senator Chafee: The phrase you have here, "In addition, large employers including the government would be required to offer at least three health care plans..." that is no longer "large" and should be "any"?

Senator Schweiker: We provide a provision for small businesses.

Senator Chafee: My real question was directed at the problem of how do you have available this plan that provides for 25 percent patient cost sharing but under your theory they have to offer it.

Senator Schweiker: Yes. In other words, we are mandating in essence competition in the private sector if you want tax deductibility. If you do not want tax deductibility you do not have to do it. You have three plans and let the employees choose and that is where the competition comes in and one of which has to be the cheaper cost sharing plan and if they choose that, they get a rebate tax free.

Senator Chafee: I would like to commend you on the preventive health measures you listed. We have had testimony from Senator Hart on the children and maternal care and the well baby clinic and childhood immunizations but it did not go into the hypertension screening and cervical cancer.

I think those are good suggestions.

Thank you, Mr. Chairman.

Senator Schweiker: I know Senator Chafee has been very interested in preventive health care. I just listed what I thought were the obvious preventive health measures that we have enough technology to know now. Maybe there are some others. These may not be the ones we pick. It it is sort of foolish I think to know we have certain things that save money if we do early and we are not asking people to do them.

Mine are not inscribed in any tablet. If there are a few others that should be in and a couple of these that should be out, let's make cost effectiveness the test.

Hypertension screening is one that we know is cost effective. Pap smears probably are also.

It is just the idea that we should really tie preventive health care into these plans and not make everybody get sick before they benefit from them.

Senator Chafee: Thank you. These are very helpful.

Chairman Long: Senator Durenberger?

Senator Durenberger: Thank you, Mr. Chairman.

Senator, I would like to associate myself with all the compliments. Let me just ask a couple of specific questions about some of the distinctions and suggestions that have been made in the last week or so regarding these competitive proposals.

One of them is the mandate approach that we use on employers, how we use the tax system. There are basically two

ways to go about it, either make the premium non-deductible to the employer or make the benefits taxable to the employee for the non-conforming employer. Do you have a preference or do you think we should consider both?

Senator Schweiker: I do not fee too strongly about it. I put the burden on the employer. I think this is a good point. We are confronted with the question of how do you regulate the system less and it is true we are imposing a burden on the employer but I think most employers would rather have that burden put on them than to put it on the Federal Government and to have it come back through the Federal Government and work on them.

You are weighing do you burden the private sector a little more and the public sector a little less. Mine would do what you said which is to mandate the employer to have three options.

One problem now is they only have one option. Everybody has a monopoly to start with. Nobody has to be competitive. As soon as they have that company, they get a free ride. The company gives a plan and the fact that the employee in essence has an unlimited expense account, that is the reason our bills keep escalating.

Senator Durenberger: My second question relates to the concept of co-insurance. One approach and the one we have been hearing a lot about is putting the cost sharing and the

consumer choice emphasis at the deductible level. In other words, requiring an employee contribution to the premium whether it is straight out insurance or prepaid plans or an HMO but limiting the employer's contribution like the 75 percent of the cost.

It seems to me you are suggesting that at least one of the plans offered puts stress on co-payment. The cost sharing comes when the health service is being delivered.

My question to you is where you think you are going to get the best consumer choice, when the consumer is well and making a choice in advance or when the consumer is sick and needs the service?

Senator Schweiker: You touched on a feature that is a little different in my plan. We leave the company the option of whether employees pay a percent of their premium. We evade that question. We say some companies pick up the whole tab now in terms of paying the whole premium. Some companies have 50/50. We do not deal with that.

We in essence get to the same problem in a more effective way I think by having three plans and one has to be the low cost plan of 25 percent co-sharing. You then give the employee the choice when he elects which plan whether it is contributory premium or not and he can save maybe $700 a year by taking the cheaper plan and self insuring himself and also have some extra spending money.

The interesting thing is in the University of California, without my tax incentive, 35 percent of the people elected to pay $63 less premium and insure themselves anyway. We submit it would be higher than that because we are giving them $500 to $700 tax free for that insurance incentive.

Senator Durenberger: My last question relates to the pool. I think this is something we are all concerned about. How are you going to extend coverage to the small employers, the farmers, the uninsurable, the people who lose their jobs and lose coverage because of age or death in the family or whatever?

You have in here a net savings and I assume under what we are now calling the Danforth theory that a savings means not a shift from the government to the private sector but an actual savings.

I am curious to know how we are going to finance the pool. Is it a payroll tax, is it a premium tax or is it subsidized in some way? Do you have any dimension to your pool?

Senator Schweiker: I have a cost breakout. We have a pool arrangement that deals with the small business problem and also the problem of people who are uninsurable. By the pool arrangement we have a higher premium rate for the participants to cover this. There would be a higher premium rate to the people who participate in the system.

We have a cap limitation on it so that it would be spread pretty uniformly but there is a cost involved.

Senator Durenberger: In other words there is a recognition of the fact that the small employer is not going to have to pay more than the large employer?

Senator Schweiker: Let me say that you could go further than my plan and bring a federal subsidy in to help the small businessmen. We do not. We spread it evenly and put it higher across the board for people. You can certainly protect the small businessman more but then somebody has to pay the tab.

Senator Durenberger: Thank you.

Senator Dole: I first want to thank Senator Schweiker. I know he has had a long interest in this area and I appreciate his support for what I consider to be something doable as you indicate, and that is in the catastrophic area. We will be returning to that as soon as Senator Schweiker has been asked the questions.

I guess you addressed the costs as I see on page one, you hold the costs by some income guide. Do you think that can be administered?

Senator Schweiker: On catastrophic?

Senator Dole: Yes.

You say you would utilize the private sector as much as possible. The elderly would be given catastrophic insurance

through Medicare.

Senator Schweiker: We use a certain gross income line on your tax form so there is one definition. I have to say very frankly it is a little more complex to administer than a flat $2,500 or $5,000. I would admit that. On the other hand it is also a lot fairer. For the guy who is really in that $8,000 to $10,000 to $12,000 bracket, catastrophic calamady begins pretty quickly and should we really be paying a person who is earning $100,000 or should we be picking up his bills after he gets a $5,000 charge.

It is a little more complex although we do tie it to an income tax line.

Senator Dole: I think you addressed the problem. As you indicate, someone with $15,000 gross income gets catastrophic fairly soon. There may be some way to accomplish that. We are trying to agree on some single deductible but this is another way to hold down the costs depending on where you put that deductible.

I agree with your comments concerning prevention. I do not know what that would add to the premium costs. Do you have any information on that?

Senator Schweiker: It would add about $2 billion cost to the private sector. It is an employer cost because we mandate it.

I do think in fairness with that $2 billion, you have to

look at what you are saving down the road because in terms of hypertension and pap smears and some other things, you can pretty well show in a few years the employer is going to get his money back.

It is not a public sector burden. It is a private sector burden.

Senator Dole: Even with that added cost under your proposal you would make the savings you indicate on the second page.

Senator Schweiker: That is right. I picked the health preventive measures that we know return dividends today. I do not think we should put a lot of things in here that are unproven. I think you should just pick a few things. Obviously you cannot do all your health prevention but where you have a specific proof that something like hypertension screening saves bucks and lives, we should at least take a few things.

You could even chop my list up a little and begin a few things that save money and ask them to include them in their plan. Our plan is so disease oriented in this society. Nobody gets paid until you get sick. For the first time here is an incentive to keep people well and maybe it is modest and limited but I think we should be starting.

Senator Dole: Thank you.

Chairman Long: Senator Danforth?

Senator Danforth: Let's assume that an employee chooses the lower priced of the three plans. Based on the California experience or what the economists project, what is the difference in coverage between those two plans?

Senator Schweiker: The difference is really that most plans have about a 17 to 18 co-insurance feature. The average, I should say. Right now if you go to the hospital you are going to end up paying the average person under their private coverage somewhere between 15 to 18 percent of their bill.

Under the third proposal that would be offered to the employee, it would move up seven or eight percentage points to 25 percent. The reason we picked 25 percent is that the health economists say the elasticity of saving, in other words for every one percent more people have to pay themselves, they reduce their demand by one half of that and it levels off around 25 percent.

We moved it up to 25 percent where the elasticity is still there. The difference is the difference between 18 percent of a hospital bill and 25 percent.

Senator Danforth: That would be for catastrophic payments only or for the total?

Senator Schweiker: It would not be for catastrophic. That is where this plan does really protect people even though you are asking them to participate but you are really giving

them some safeguards. First you give them out of pocket money of $500 to $700 to insure themselves which is a protection.

Senator Danforth: To spend on vacation or whatever they want to do with it.

Senator Schweiker: Yes, unless they are concerned with the reality of a medical cost and they would spend it for that.

The catastrophic takes over if the total bill for his medical bills hits 20 percent of his salary income. At that point you destruct the 25 percent co-insurance plan. Nobody gets hurt under my system.

Senator Danforth: At that point 100 percent is paid.

Senator Schweiker: Exactly. Once a person gets up to 20 percent of his income with medical bills, the 25 percent co-insurance wipes out. It is a little like the thing on your car. The reason we get lower car insurance is because you used to pay $100 deductible and now it is $250 or $350. It is the same principles involved. The more self insurance people do, the less they utilize the system and you hold down rates.

After 20 percent of income, there is no 25 percent co-sharing any more.

Senator Danforth: It would seem that the people most likely to opt for the lower cost program would be the people who had the most pressing need for cash now. Do they get into any special crack as a result of opting for the lower priced

program once they get sick? Have you bought in effect the insurance with the lowest coverage and therefore the highest burden on the sick person for the person who has selected it on the basis of being particularly needy in the first place?

Senator Schweiker: If we did not have our catastrophic trigger at 20 percent, we would have done that. Because our catastrophic phases in when that low income person who is on a $10,000 salary has a $2,000 trigger, we are protecting him even though he may be doing that. The guy who is earning $100,000, his trigger for catastrophic does not come until $20,000. He is going to have to pay.

It is true that your lower income may well take advantage of it. On the other hand they get a benefit that the higher guy does not get because they will trigger at $2,000 for catastrophic.

Nobody gets hurt. You are right but he also is going to get $700 of tax free income roughly depending upon the plan which he is going to insure himself on. Some years he will win and some years he will lose.

Senator Danforth: I very much appreciate this proposal and thank you for sharing it with us. I think this really adds to the total input that we are considering.

Chairman Long: Thank you very much for you time. I realize you are very busy and I appreciate this time.

Gentlemen, we will go back to the area of health issues.

Senator Talmadge: We passed over an item last week and I would like to turn to it if I may, the coordination of benefits. I would move the adoption of the staff's suggestion.

Chairman Long: What is the staff's suggestion on that?

Mr. Constantine: Mr. Chairman, it is listed on Attachment A among the matters that were carried over at page six at the bottom.

The Committee tentatively agreed to mandate coordination of benefits among the group policies, any group coverage issued under this program. That means the benefits under the catastrophic plan would be reduced on account of any other group coverage.

The suggestion was made that many people purchase individual insurance by way of supplement or complementing their coverage to cover costs which are not otherwise met. The concern was this may lead to malingering, that is people trying to get duplicate of benefits and so on.

That to us seems to be much more a problem when you get to the basic coverage level for going in for a few days and we see really no reason why there should be any requirement of coordination of benefits with respect to individual insurance coverage that is individually purchased.

Senator Moynihan: Mr. Constantine, you used the word "malingering"?

Mr. Constantine: Yes, sir.

Senator Moynihan: How did you define it?

Mr. Constantine: That is essentially someone who is ill and who stays on for appropriate periods of time in a hospital or seeks services more than he otherwise would because he is making money on it. He is getting paid from two sources for that extra day in the hospital.

That seems to be a problem on the basic side rather than when you get into the catastrophic insurance area.

Chairman Long: Those in favor say aye.

(Chorus of ayes.)

Chairman Long: Opposed, no.

(No response.)

Chairman Long: The ayes have it.

I would hope you would direct our attention to some of these issues that we might decide on.

Senator Moynihan: Mr. Chairman, on behalf of Senator Ribicoff and Senator Bradley, I would like to bring the Committee back to the question of the way we handle persons whose incomes are $10,000 if we are talking about a $2,500 deductible and obviously it ranges as you change the deductible.

For purposes of this discussion which is one of principle at this point, let us say we have a $2,500 deductible such that persons with incomes under $10,000 would be paying more

than 25 percent of their income in a catastrophic situation.

These are not just hypothetical. About one third of the population has an income roughly under $10,000 and we are talking about $2,500.

The Administration has a proposal which is a decent one but which we three Senators and we hope others do not really agree with because it is the situation where you spend yourself down into eligibility for Medicaid. It does deal with the problem but it escapes our objective.

Our objective is to treat all working people alike. I fear the Administration's proposal treats all poor people alike including those people who become poor because of medical expenses in a given year.

If you would like to know what you get into, I have passed around for the members what a Medicaid application form in New York City is like. They are not different elsewhere. Mike Stern would have trouble with this. It just defies the conditions of most households to produce. The document and the guide of the documents you have to produce, the extra additional information, it just invites a catastrophy.

Our proposal is simply that all employees be treated as if their deductible were $2,500 and one of a range of provisions be made in which you would make up the difference between 25 percent of income and $2,500 for those persons who fall into that category. We can talk about specific

provisions. It seems to me the issue of principle is the first one.

I would suggest that the alternative we have since we all agree or mostly agree is we have three possibilities. We can do nothing, take the Administration's proposal which is a well intentioned one of spending down so persons with low income rates can become eligible for Medicaid or alternatively making up the difference between a fixed percentage and we proposed 25 percent and there is nothing fixed about that except it seems to be a number we are using, making the difference between 25 percent of income and $2,500 up.

I would wonder on behalf of the three of us who would like to propose this if we may have discussion. Obviously we are in favor of it. We would like to know what others think.

Senator Schweiker adopted this principle at a lower rate of 20 percent.

Chairman Long: Mr. Champion?

Mr. Champion: Mr. Chairman, obviously there are some advantages in terms of equity in dealing with percentage of income. As the Senators have suggested, it is partially a matter of money. There is quite a lot of money involved in going beyond the $2,500 flat. There are problems of administration which I think depends on whether you go through the tax code to do that in which you start having tax look at some of the same kinds of income and coverage questions. What

gets considered as a cost that counts toward the deductible is a whole set of health questions. You take that to the I.R.S. and we are going to have a lot of problems with it.

In principle, the notion that this becomes more like a four to one spend down instead of a one to one or two to one spend down and it obviously is desirable at those brackets not to have people pay what is catastrophic for them, the principle that both Senator Schweiker and Senator Moynihan have spoken to.

I think we can best consider it when we consider all of the low income provisions and the way in which you deal with them. This proposal is a bridge into that discussion of how much money you are going to spend in that area and how much is going to be spent in effect to benefit low income people.

I would make only one other comment with respect to Medicaid. We do not propose that people who spend down go into the welfare system and go into the Medicaid system.

Under our proposal of health care they come into this new entity. They do not go through the Medicaid applications.

Senator Moynihan: They go into the health care applications.

Mr. Champion: They go into the health care which is directly prepared to deal with the problems of what is covered as an expense and therefore qualifies you as against any kind

Chairman Long: Mr. Constantine?

Mr. Constantine: Senator, we have wrestled with this over the years for you and other Senators in working on proposals. Senator Moynihan is absolutely right that it would obviously be more equitable if a feasible means of defining "catastrophic" in relation to someone's income could be determined.

There are a lot of problems with it. In an employer mandated program you would be making a conscience decision to put in a means test. That would have to be a decision to be made. Secondly, if you relate it to adjusted gross income there are many kinds of income which do not get into the taxing system, exempt income and so on. Third, you are basing the deductible on a prior year's income relative to the year in which he has the catastrophy.

If you used a ten percent income test and a family had income of $20,000 last year and you used $2,000 as the level of deductible, when the catastrophic illness commences, the income may very well terminate or be decreased substantially but you are putting in a deductible relating to income during a prior period as a test of ability to pay.

The problem of insurers underwriting basic coverage below that when their liability is indeterminable, they do not know what their liability is with respect to a given employer with all of the varying deductible amounts.

I think it might be helpful, Mr. Chairman, rather than

our doing this, if Senator Moynihan would like, was far as any administrative problems and also the fact that the insurers would have to get into the income determination question, we do have for this and other discussions the representatives of the insurance industry and the Blue Cross Association or actuaries and underwriters. They at your pleasure can answer any mechanical questions.

Chairman Long: Senator Dole?

Senator Dole: I think Senator Moynihan raises a valid point that we should address. I assume one way you can have a higher deductible but it does not make too much difference if you are going to have a percentage of income whether it is $2,500 or $3,500, that would have some impact on the cost.

I would hope HEW could give us some estimates on cost and maybe the private sector could help us determine whether or not it could be administered.

I think Senator Schweiker touched on it very well and we tried to in one portion of our measure and we have backed away in the other section because of administrative complexities.

Mr. Champion: Senator, we will be glad to do that. We agree with Senator Moynihan and his colleagues in that there is a principle of equity and this is a group which you would want to help. The question is the device and it is the tradeoff against a higher deductible potentially when you put in the percentage in terms of the dollars involved. It is

also a tradeoff as to how you deal with the other low income problems.

Chairman Long: One thing which concerns me about this is how far we want to go with this principle that is already implicit in our federal medical programs that the more you pay the less you get. For example, middle income people who are not aged are picking up the burden as the taxes are being passed through to them on every product they buy and they are paying their full share of the tax and these payroll taxes and then in terms of that being passed on in the cost of the product to them as consumers and when it comes their time to be on the picking up end, they are not eligible for any of it unless they are aged.

We have about $60 billion they are paying and they are not getting any benefit out of all that. Now they come along with another program. They are not complaining bitterly but they are concerned about some of the wasteful aspects of it all and they come along with other programs and say the more you pay the less you get. Here comes another program to pay for without getting much benefit in return.

It seems to me that at some point if we are going to have an insurance program that it should be an insurance program. The guy that pays should get at least as much as the person who does not pay. The more you pay the less you get and the less you pay the more you get.

We will undoubtedly subsidize all these low income jobs by saying these payrolls which would cost about five or six percent in order to insure, we will subsidize those employers or employers and employees to pay as much as maybe 80 percent or even more that that of the costs. We are planning to spend a lot of money here to help the low income people.

I just wonder to what extent we should try to do that on an insurance principle. I think we would do better to wait until we get to the low income part of it and look at this as an alternative or as one of the alternatives that we will be dealing with on the income principle, to say to what extent we want to make this a low income based program and to what point we want to make it a so-called insurance program.

It may be it might be appropriate to hear somebody from the insurance industry. Would someone care to tell us about what their problems are with regard to that?

Mr. Schiffer: Yes, Senator. I think you have pretty well addressed all of the potential problems. I think we are very much in sympathy with the thought that there are low income people who will need additional help. Our principle right along has been to say whenever the costs of these kind of benefits can be taken care of through the private sector and through private individuals, they ought to be and to the point that any individual is not able to pay for his own benefits, then it requires some kind of help from the public

sector. We have tried to establish that principle in everything we have done.

We certainly are in sympathy with Senator Moynihan. We think that there is a real need for some subsidization for these kind of people.

Our approach has been similar to the Administration's plan. It is one way of addressing the issue, that is to let people spend down to the point where they become eligible for Medicaid. There are other more complicated mechanisms that I think we could establish through insurance companies that would still involve the same principle of subsidizing these people.

We will be glad to try to address a couple of ways in which that could be done. I do not think it changes the basic principle we are operating on.

Chairman Long: We have the proposals that we are scheduled to look at to subsidize the premium for these low income jobs. Those are mainly the ones that are going to be subsidized, are they not?

Mr. Schiffer: That is the initial subsidy.

Chairman Long: I would hope and I believe that we will subsidize their premiums. The Administration is recommending that. The private insurance industry is recommending that. Bob Dole is recommending that. With all those people recommending it I guess I am going to have to go along with

that part of it. I think it makes good sense.

I would hope we would take a look at this and then hold this until we get to the low income part and see how we are going to handle these low income people, if it is going to be done by having a certain percentage of payroll, 20 percent or whatever. I would like to consider it then and look at the spend down in connection with it.

Senator Talmadge: Mr. Chairman, when we consider that we might consider the whole coverage be predicated on something similar thereto rather than have a particular dollar deducted from that. If we go with this provision of low income people we might want to go the same route with high income people and make them eligible only if they spend a certain percentage of their gross income.

We can argue very strongly if a man is earning $100,000 a year, why should the government subsidize his catastrophic coverage after he spends $2,500 or $4,000? It seems to me if we go this route for the poor or near poor, we may want to go the same route for those who are more effluential.

Chairman Long: We could look at it at that point.

Mr. Champion: Mr. Chairman, I would like to point out that we do not subsidize that coverage under our proposal for $100,000. He is mandated for coverage but that is fully paid by his employer. There is not any government subsidy for high income.

Chairman Long: They would get the same deductible. You are recommending $2,500. I am talking about $5,000. In any event he would get the same coverage.

Senator Chafee: Mr. Chairman, I would like to ask one quick question of Mr. Champion. Under the proposal of Senator Moynihan which I concede has a lot of merit, going to the percentage rather than a flat sum, would that not increase the premiums for insurance on the low wage employer since his people would obviously more quickly be eligible?

Mr. Champion: Senator, it depends on how you finance that, whether you use public funds to do that or whether you try to use the employer mandate. If you did use the employer mandate it would. If you use some public involvement then it would not.

I think we need to spend some time with Senator Moynihan and the other authors of this proposal. They have offered a flexible set of ways in which to look at how you do this. I think the answers to a lot of questions depend on the mechanics of how you finance it and what the mechanism is as to whether you will go through the Tax Code or whether you come through some other mechanism even insurance mechanisms.

Chairman Long: What can you propose here that we might be able to decide on fairly quickly?

Senator Moynihan: Senator Long, we are not talking here about a low income population. We are talking about one third

of the workforce. This is not a group set aside that is somehow particularly disabled. We are talking about a third of the workforce that with respect to catastrophic illness have a problem with costs.

Mr. Champion: We are talking about people who would not be covered by our plan except through the employer mandate at this point in large part.

Senator Moynihan: I thank the Chair and I thank Secretary Champion.

Chairman Long: What can you suggest to us that we might be able to decide here?

Mr. Constantine: Mr. Chairman, we also would like to point out that the Administration proposal includes an increase in the medical expense deduction limit from three percent to ten percent. That would also be a factor in what is happening.

Mr. Chairman, the first four pages of Attachment A deal with the amount of the deductible and various subsidy levels which the Committee might want to consider with respect to employers.

The Committee tentatively decided to seek a single family deductible previously without specifying amount. You could make that decision this morning as to an amount and a subsidy level for employers incurring additional costs as a result of any mandated coverage or you could go on to page five where

risk pools are discussed, the question of whether you want to establish risk pools and then you have already decided the issue on coordination of benefits on page six. On page seven there is non-payment of premium by employer.

You could move on the supplemental list which has a lot of minor ones that I think you could decide right away.

Chairman Long: Just looking at these various costs, I would think and I would hope the Committee would start something about July of next year and if that were the case, it may very well be that by the time this had been in effect by 1983, we might want to be fairly close to what the Administration's figure would do if it were adjusted for inflation.

I would personally suggest the $3,500 level for the time being. The overall cost would be $6.4 billion. If we went right to the Administration's figure it would $7.2 billion and the $5,000 would be $5.5 billion.

I think the $3,500 would be a good figure. I would suggest it not be adjusted for inflation for the next couple of years. We might want to have a lower figure in 1983 and at that point that would be adjusted for inflation.

Mr. Constantine: Mr. Chairman, what you could do is use whatever number you chose, $3,500 for an example and not index that for the first couple of years of the program and then start indexing it for the third, fourth and subsequent years.

Chairman Long: When you start indexing you could have a lower figure. At that point you could have $3,000 and index that.

Mr. Constantine: You would then have a substantial increase in costs when you drop down.

Chairman Long: I know. That would be necessary to have a high cost when you drop to a lower figure. I would suggest we start out with $3,500 for the first couple of years.

Senator Dole: Perhaps it would be all right to delay the indexing for a year or two but I would not want to drop below the initial figure and start indexing that figure. That would add not only to costs but pretty soon we are going to have a comprehensive health bill here.

Chairman Long: How do the Senators feel about the $3,500 level for the first couple of years? That would be a total cost of $6.4 billion.

Senator Dole: Would that satisfy the Administration?

Mr. Champion: Mr. Chairman, I think with the decision you made on the family that is a reasonable point from which to work. What we would like to do is talk some more about that issue of indexing because that gets us into other problems. I think that is a good place to start.

Chairman Long: Are there any objections?

(No response.)

Chairman Long: Without objection we will adopt the

$3,500 level.

Senator Ribicoff: May I ask a question?

Chairman Long: It would not be indexed for the first two years.

Senator Ribicoff: I was chairing other hearings and I had to wait for someone else to relieve me.

How much would you save if the deductible is $3,500 instead of $2,500? What are we talking about?

MS. DAVIS: On employers, that would be about $600 million. It would go from employer costs of $4.8 billion with the $3,500 deductible compared with the employer costs of $5.4 billion with the $2,500 deduction.

Senator Ribicoff: I was told by my staff that the Chairman put over the Moynihan proposal. In many ways, would this not be tied up with what is worrying Senator Moynihan about the people of this $10,000 earning capacity?

Senator Dole: Not really if we base it on a percentage of income, it would not make any difference what the deductible was. If it is 20 or 25 percent of income the deductible could be higher without doing any violence.

Mr. Constantine: Senator Moynihan, I believe you would still have a fixed number and the subsidy levels would be below that if you related it to income.

Senator Moynihan: I assume that is the case.

Mr. Champion: What it would do in effect would be to

transfer the money that you save from the $3,500 deductible into the device you are talking about because you would have a higher beginning point.

Chairman Long: By adopting the $3,500 we might find the money to do what you want to do, Senator. When we see what we have in the other respects and then we look at the low income part we will be in a lot better position to get to it.

Without objection we will agree to the $3,500 level.

Mr. Constantine: It is $3,500 not indexed for the first two years.

Senator Dole: I think the Administration was not quite sure they agreed with that.

Mr. Champion: That is fine with us, Senator.

Chairman Long: I presume after the first two years it would be indexed.

What is the next item we can look at?

Mr. Constantine: The next issue, Mr. Chairman, I guess we move over to subsidies for employers on page five.

Chairman Long: We are going to have to look at something here that involves the Dole amendment among others, do we not?

Mr. Constantine: Yes, sir.

There is information on the earlier pages which the Committee asked us to get about various impacts on small business and to the extent we are able to get it we put it in. The basic information on subsidy costs at various levels

appears on page five.

Senator Dole: I guess there are several proposals but Senator Danforth, Senator Domenici and I have the so-called employer hardship subsidy. Is that the one you are considering today, the 102 percent?

Mr. Constantine: That in essence is it. It is the definition of what is a hardship for an employer and I believe in your proposal it is where the incremental costs to an employer exceeds two percent of his payroll costs he would be subsidized under the 3-D bill at 50 percent. He would get a 50 percent credit for the excess the first year decreasing by ten percent I believe in subsequent years.

Mr. Chairman, the problem in looking at it last Friday, the Committee noted that in particular and the Administration pointed out that the people without coverage in the main are the low wage industries such as agricultural employment, retail trade and service industries. The costs of coverage can be quite extensive. This indicates the need for subsidy.

For example, the minimum wage would be about $6,000 a year at current levels. The cost under the Administration's proposal at a $2,500 deductible level and we would have to look at what it is at $3,500 say is $540 a year for family. That is a very substantial increase in the payroll costs for that low wage employer.

I believe Senator Dole's approach was to help subsidize

that . It would be roughly nine percent above his present payroll. As we understand the Dole-Domenici-Danforth approach, the employer would be expected to assume the first two percent and then he would receive a tax credit under the example cited of say another 3.5 percent. It would be a tax credit of 3.5 percent which is the difference between two percent and nine. That is the approach adopted in the 3-D bill on that.

It does not apply to across the board. It is only employers who essentially are increasing their costs for the first time as a result of the mandatory coverage.

Chairman Long: On the first two percent of payroll that employer would pay assuming that he has to pay five percent, on the first two points that he has to pay, would he get any tax credit or deduction on that?

Mr. Constantine: He could certainly get his deduction, yes, sir.

Chairman Long: He would get a deduction but not a tax credit?

Mr. Constantine: No, sir.

Chairman Long: It appeals to me that he ought to have some adjustment on that. That is an additional burden on him, too. I would find a lot of appeal to say he gets the tax paid for half of that. That adds to your cost, does it not?

Mr. Constantine: Do you mean for example a 50 percent

tax credit on the first two percent plus subsidy for amounts above that?

Chairman Long: Yes.

Mr. Constantine: Yes, sir, that would add to the cost.

Chairman Long: Why do we not just reserve that for the moment and talk about the tax credit? You have the subsidy here. It costs $450 million for the Dole amendment if it were a 50 percent subsidy.

Mr. Constantine: Yes, sir.

Chairman Long: You computed the cost of 100 percent subsidy and that would be $900 million. What is the argument for the 100 percent subsidy?

Mr. Constantine: The argument for the 100 percent subsidy would be at least for the first couple of years or so to give the agricultural employer, the retail trade people and the service industry people an opportunity over time to presumably build that increased cost, phase it into their wage and price structures over a period of time. You could phase it out as the Dole-Danforth-Domenici proposal has. You would be giving them some relief over a couple of years to try in an orderly fashion to build that into wage and price structures.

Mr. Champion: Mr. Chairman, we have tried to examine some of these proposals. It seems to me there are three devices to work with here that really sort out some of these problems that we would like to offer conceptually to the

Committee to talk about.

One of them is the size of firm. As we went back and looked at the distributional effects which we talked about it is very clear that size of firm both in terms of the hardships involved and in terms of where this problem exists is important. Most of this problem is down to 25 employees and in that area.

We could solve some dollar problems by not trying to deal across the board but by looking at size of firm to provide some of these probably in terms of numbers of employees but we will have to look at law firm problems and that kind of thing.

I think if we can get down there with some other qualifications that it need not be so costly to subsidize very substantially these employers in these areas.

Chairman Long: If you are talking about a firm with just one employee and that is a $6,000 employee, $500 a month, even if they have to pay what would be a net of let's say four percent that is still only $20 a month. Is that the way you are thinking?

Mr. Champion: I am thinking really in three terms. One is size of firm which might also fit into your schedule of bringing employers under coverage in catastrophic over a period of time. You might start with large employers and over a period of time get to the lower employers giving them some time to adjust.

Another is then go from that and during that time use Senator Dole's transition device of tax credits or support in that fashion and then end up with a residual problem of dealing with the residual, the kind of problem we tried to deal with in our initial plan, that is high risk employers, very small employers who cannot get in on a reasonable percentage of payroll with our proposal for subsidizing at that rate.

If we could take those three devices and work them together, we would not create a large permanent subsidy. We would help the small firms through their initial period, give them more time to deal with it and end up with a residual protection of the kind that we offered in the original plan for people who are always going to be five percent of payroll or above because of the nature of their enterprise.

Chairman Long: Do you find any serious objection to what Senator Dole proposes on the 50 percent? Give them 50 percent subsidy for whatever they have to pay over two percent. This is a tax subsidy.

Mr. Champion: For a limited period of time, a transition period to fix a subsidy for those firms. We have a problem with one aspect and that is a measurement problem of additional expense. What is it in an inflationary time and what is already being spent and what is the additional amount.

Chairman Long: Here is the way I am thinking. The kind

of things we are going to do, we are going to have to be phasing them in because of the costs. Even the Administration comes up saying that. You want to do more but you want more time to get it done.

Mr. Champion: Yes, sir.

Chairman Long: If we start out by saying we will not try to cover everybody right in the beginning but we will try to cover all these situations that can be fairly easily administered. Just as you did when you started the unemployment insurance, you did not have everybody in it. In doing that we put some more over here into the Medicaid part of it to where in that area those that we cannot catch here we are going to do a lot better for them over there than we are doing now.

All the poor would be better protected hopefully next year by the time this thing goes fully into effect and that is as our first year benefit gets fully cranked in. They are all going to be a lot better protected than they are now.

If we think in terms that the following year we will do better by them and the following year we will do better. By the time we get to your starting date of 1983, everybody will be a lot better off than they are right now and the program keeps getting better from the point of view of those who are least able to pay.

If we could follow that approach we could work with the

money we can find and approach the kind of target you had in mind that nobody is really going to be left destitute and destroyed by these high medical expenses.

That might be a way to do it to where we do not try to get everybody necessarily in the first year but those that we fail to get in come in later on. We help those who are going to have difficulty paying for it and that is employers who are going to have difficulty paying.

Senator Dole: I want to address the small firm. When you say "small" that sounds fine but you could be talking about a law firm of 25 lawyers. That is a small firm all making $100,000 each or you could be talking about a small company out in the State of Kansas where maybe the boss made $15,000 and everybody else made less. I think the difficulty as I see it.

It seems to me when you spread it across the board there is more equity and it applies to everyone and it just removes one other administrative problem of trying to figure out who has 25 or 24 or 28 employees. That is the only objection I would have and I understand the reason for it, to get another handle on costs and try to bring down the costs.

Does the insurance representatives have any comment on this hardship subsidy?

Mr. Champion: Senator, let me say that I agree. Those people that we are talking about are now covered and as I

understood your proposal it is for additional costs of coverage that we are trying to protect. We are not going to have the problem with that law firm unless it is an unusual situation.

Mr. Constantine: Mr. Chairman, we believe the size of the employer makes no difference. You have a notch problem once you get in if you say employers of less than 25 you get that 24 or 26 kind of thing as to who gets what. Additionally there are competitive considerations. You may have a large textile firm which for competitive reasons has been unable to provide the coverage but now under this mandatory thing has to now bring this in and it is in trouble with this additional cost unless you provide some relief.

It is the mandated expense rather than the size we believe. Under the 3-D proposal, the cost of the 50 percent subsidy at the $2,500 deductible was $800 million. The cost of a 100 percent subsidy at the $3,500 level is $900 million, $100 million more.

We have gone over this very carefully. We think the impact is going to be on the people who do not have coverage, the low wage employers, very substantial. We think very honestly and I guess we can say that there will be significant political repercussions from these people unless you provide them significant relief over a period of time.

For some employers it could be eight to ten percent of

their average wages in this mandated cost. We would strongly suggest that given the higher deductible that the Committee consider the proposal you discussed earlier, Mr. Chairman, of a slight variation of the 3-D proposal, a 100 percent subsidy for costs above 50 percent which is increased costs during the first two years decreasing by say 20 percent a year thereafter.

Senator Ribicoff: What is the situation if you have Company A and Company B and Company A has been a model employer and about the same size and competitive business and already has a good catastrophic coverage on this employees and he gets no subsidy and Company B who has done nothing for his employees suddenly has a large bill and he gets a subsidy and that puts the good employer under a competitive disadvantage.

How do you straighten out that inequity?

Mr. Champion: Senator, our proposal recognizes that. That is why we think it ought to be transitional only so that everybody is ultimately in a residual position. Presumably if they are in that competitive situation now it cannot be completely fair and you are absolutely right. The question is can you get them over a change in their business thing over a course of two or three years with that subsidy and have everybody at the end of that time making the adjustment so that they are then on the same basis.

I recognize there is a kind of inherent unfairness but I

do not know how we can bring everybody into the same pattern or into a mandated pattern without creating some of those temporary inequities. My point was I think they ought to be only temporary and they should not be frozen in.

Chairman Long: Let me just make this suggestion. We can improve on this later on. Let me just suggest that we are talking about the employers who are going to have to pay more than two percent of payroll right now. While we are making them pay more we are going to help to ease the burden.

Let me suggest that we start out by subsidizing them 80 percent of that cost. That would be four fifths of the difference. Then have this gradual phase down that you are talking about that would diminish by ten percent a year until it gets down to 50 percent. We can improve on that later on. For now we would start them out by giving them an 80 percent subsidy.

As I understand it we are saying assuming they are going to have to pay two percent of payroll which they were not paying before and we are talking about the increment, is that correct?

Mr. Constantine: Yes.

Chairman Long: I assume we mean an increment over two percent of payroll.

Mr. Constantine: Yes, sir.

Chairman Long: If this goes into effect they are paying

more than they were paying and they are paying more than two percent of payroll. Is that right?

Mr. Constantine: Yes, sir.

Chairman Long: At that point they would receive a subsidy, a tax subsidy of 80 percent of the additional cost. If they had to pay another five points, if they had to go to seven percent, then it would only cost them one point of that additional five points.

Mr. Constantine: This would relate to the mandated coverage.

Chairman Long: We are talking about the mandated coverage and the incremental costs.

Senator Ribicoff: The only thing, Mr. Chairman, I think you would certainly be weighting this much more on a competitor's advantage as against the good employer against one who was indifferent in the past.

Mr. Constantine: Senator Ribicoff, there is validity to what you are saying. I suppose the only argument apart from the enormous costs, that is if you provided a subsidy for across the board to everyone where this brought them over two percent of payroll is that the employers who are doing it today and who are providing that coverage presumably have had an opportunity over time to build those costs into their wages and price structure. I suppose that is the only argument you could make.

Senator Ribicoff: You do not know. How do you know? You have two supermarkets next to one another doing the same volume of business and one makes larger profits than the other because the other's costs are higher and generally the wage competition in the area would be about the same.

I think you have a problem. While you want to bring everybody in you do not penalize the employer that has been doing the job and doing the right thing.

Chairman Long: You are not penalizing him.

Senator Ribicoff: His competitor right next door is getting an 80 percent subsidy and he is getting nothing.

Chairman Long: Let's assume it costs five percent to insure in both cases. Let's say here is the guy with the white hat and he has been paying the five percent to insure those workers and the other fellow has not been paying anything in that regard. The guy in the black hat next door is going to have to pay the two percent to begin with.

On the additional three percent he pays he will get an 80 percent subsidy but he is going to be paying a lot more than he was paying before and the competitive advantage is far more even now than it was in the beginning.

I do not have any doubt that as we get this into effect these fellows with the white hats will come out here and say we want to be heard and in due course we will have to do something for them. That is what we are here for.

Mr. Champion: Mr. Chairman, I would like to avoid that moment and support Senator Ribicoff to the point of saying we ought to phase to zero. We also ought to fix an absolute level above which we subsidize anybody in the conditions so that people who are now doing it and paying six percent come down so that you fix a level that is fair to everybody at the end of that transitional period and do not give those people an opportunity to come back in and ask to make the plan more expensive without greater health coverage.

Chairman Long: That sounds fair enough. After we get a few decisions made here we can work toward that. We are talking about phasing down right now on down to 50 percent. If we can get some of these things together and we are looking at a bill that has more of these details filled in, we can do a lot better job at solving some of the rest of it.

What else can you take us to?

If there is no objection, we will have the 80 percent figure for now.

Mr. Stern: That would diminish ten percent a year?

Chairman Long: A ten percent phase down for three years, phasing it down to 50 percent in three years.

Senator Danforth: The 80 percent credit and the deduction together, how does that work out?

Ms. Davis: The average effective rate would be 30 percent. In terms of the additional amount of paying the

effective rate, the additional amount you are paying is 70 percent.

Senator Danforth: You get an 80 percent credit.

Ms. Davis: We are saying in the absence of the 80 percent credit, you are paying one million dollars more in health care premiums. You are really paying 70 percent of that because from your other taxes it can be deducted.

Senator Danforth: They are coming up with a gain.

Ms. Davis: Yes.

Mr. Champion: The question is do you then apply the 80 percent or how you deal with that in terms of how you want the 80 percent applied.

Mr. Stern: That would not be a gain, Senator Danforth, because this 30 percent effective rate she is talking about only applies to the part the employer actually pays, the 20 percent. It might raise the 80 percent to say 86 percent or 87 percent.

Chairman Long: Why do we not say 80 percent and you cannot deduct it for now? We can change it later on.

Mr. Stern: Mr. Chairman, do you have in mind when it goes down to 50 percent it remains 50 percent indefinitely?

Chairman Long: We can always amend it later on. The Administration of course would like to see it go on down to zero. We can change this bill again and again. Let's leave it at 50 percent now.

Senator Ribicoff: Mr. Chairman, while these tentative agreements that are being reached, as the staff and the Administration start putting this together, they give us the alternatives of the questions and the concerns being raised by other members on this Committee. I think many of us do not have the backup to put this through a computer or anything else to see where it is coming out. I think we would like to take a look at it for the Committee to understand and for ourselves to understand the differentials we are talking about.

Mr. Champion: Senator, we will be glad to try to provide anything we can. We are dealing as many of you know in some cases with uncertain statistical bases but we will do the best we can.

I would like to raise a question in connection not going back to that but having to do with the relationship between the Administration's bill and your expressed interest, Mr. Chairman, in having something earlier.

Obviously we are very concerned that there not be early dollar costs before 1983 and that was part of our plan. One of the suggestions I made as to getting an earlier start, if you go with large sized firms, you have very little budget impact before 1983. It also lets you I think where there are large dollar impacts get people more adjusted and people who have not dealt with the health insurance system and so on

before, it helps us get set up better and helps them get set up better.

I would like to ask the Committee to look again at the question of phasing this in by firm size. The higher you go in firm size the easier it is to do early and the less cost there is or extra cost to us in terms of subsidies.

Chairman Long: I think we should look at that and we have to consider it. We will look at the firm size.

Mr. Constantine: Mr. Chairman, in the supplemental list we do go into the question of effective dates but assuming that you have a desire or whatever your pleasure is with respect to effective dates that if you wanted to get coverage in earlier, it is precisely the smaller employers who do not have the coverage. The larger people generally have a much higher proportion of coverage. If you required the larger people to be covered first, you are really not reaching the people initially who do not have any coverage at all.

Senator Ribicoff: Mr. Chairman, I again respectfully suggest before we start taking dates, I would like the insurance industry as well as the Administration to let us know whether they can put this into effect at an earlier date. I cannot imagine anything more tragid and disasterous for this concept than to try to put in this type of a program without the ability to deliver.

I think this is a matter of fantastic complexity which

would mean the ruination and the disallusionment of everybody in this country. I think this would be tragid.

Chairman Long: Can the industry comment on that at this point?

Mr. Constantine: We have talked to them, Mr. Chairman, about the effective dates here. We have their best guestimates. They are here from Blue Cross Association and the Health Insurance Association of America.

Chairman Long: Let them tell us what they think about the phasing in. What time lag do you need? If we could make some decisions around here in a month, how much time do you need to get the people insured?

Mr. Schiffer: Senator, we are first of all dealing with our proposal. If you amend that substantially so that it becomes a very much more complex plan then my answer would no longer hold. Assuming we deal basically with the approach you have been talking about here, we are required to do two things. One is to establish some kind of residual market mechanism pool either on a state or regional basis.

We believe with the experience we have had in Minnesota and in Connecticut in establishing those pools that we could in fact have them operating on a nationwide basis within six months after the enactment date of the bill.

Mr. Champion: That is not individual state pools, that is some sort of national system?

Mr. Schiffer: We believe we can have individual state pools or regional pools operating on that basis.

Mr. Champion: You really believe that?

Mr. Schiffer: Yes, we really believe that.

Chairman Long: You could have the pools going. How long is it going to take you to sign people up?

Mr. Schiffer: As the pools now operate it is up to the individual to take the initiative to sign up for that pool. It may take a week or forever for individual people.

Senator Ribicoff: Mr. Chairman, coming from an insurance state and with all due respect to you, sir, the consequences for a wrong decision on your part would be disasterous to the entire insurance industry. If we are going to do that I want the presidents of the major insurance companies of America to come and testify that they can put this into effect in six months because they are going to have to live with it.

In all due respect to you, from an actuarial standpoint, I want the presidents lined up of all the major insurance companies of the United States to tell the people that they can deliver this system in six months.

Mr. Schiffer: Senator, to the extent that I hope I anticipated your question, I was on the phone last night with Mr. Kilpatrick at about 10:00, who is the Chief Executive of the Connecticut General as you know and we discussed this point. I told him that an early implementation date would

require a major effort on the part of the commercial insurance carriers. I would see that we would really have to all pull together on this. Mr. Kilpatrick assured me and I would like to assure you that he is certainly prepared to lead that kind of effort.

Senator Ribicoff: Connecticut General is a great company and I respect them and all the Hartford companies. You are now talking about something that will involve the entire insurance industry of the United States. It is not Mr. Kilpatrick and the Connecticut General that is going to do this whole operation. You are going to get the major companies who write most of the insurance to come in here and say they can do it.

It is not a question of transferring how you cover General Motors or General Electric or Dupont. You are talking about the whole nation. If you are going to do something like this, this is a huge problem. You have the problems of cost containment. You have the problem of doctors. If you go with the Enthoven suggestion, you have competitive but group insurance. This is a very big problem.

You have to go back into HEW. Can HEW do this? Heavens knows, they have all kinds of problems over there. Now you are going to take this and put it on them and say they are going to do it in six months.

There could be nothing as devastating. I think the

objective that is seeking to be achieved is one of the most worthy in this country and I commend the Chairman for doing it.

Let's not take a matter of such grave and important magnitude and then destroy it by the inability to deliver on it.

Mr. Schiffer: Senator, we are certainly very much in sympathy with your concern. I think you deserve an answer and alleviation of that concern. We will suggest certainly to the industry that there is a high level discussion on this subject and to make sure that all of the other insurers do feel as we do and in fact that we can give you that assurance.

Senator Ribicoff: That is not good enough. I want John Filer and I want Mr. Kilpatrick and the President of Traveller's and the President of Prudential and Metropolitan and Mutual of Omaha. I want them all lined up to come in and assure the American people as well as this Committee that they can deliver on the timetable you have set.

It is going to be your responsibility and not HEW's responsibility if you cannot deliver on it. You are not going to be able to kick around some bureaucrat who cannot deliver like the Energy Department and the gas as they are getting kicked around.

It is going to be the insurance industry that has a responsibility of administering. I know that industry. They

are capable and they are good. I know they like what is being developed here. I think they do recognize their responsibility to their stockholders, their employees and the insurers.

This is a very grave problem, Mr. Chairman.

Chairman Long: Sure it is a grave problem.

Mr. Schiffer, do not your figures indicate that insofar as the families of working Americans are concerned that your industry already has 90 percent of those people on the rolls in some respect?

Mr. Schiffer: That was the second piece of the job we have to do. Let me first assure Senator Ribicoff that in fact we will get that kind of a commitment from the industry. We will have Mr. Filer, Mr. Beck and Mr. Schinn and so forth assure you of that or we will back off the position.

Senator Ribicoff: You have another problem that you are not taking into account. Once we pass this type of legislation and this type of insurance, you now have to go back and renegotiate contracts with the labor unions. This is a very big piece of fringe benefits that they have. One of the problems they have, now you have a different type of coverage and there are changes. You are going to have to start renegotiating these contracts. That gets tough to do.

Can you renegotiate all your contracts in six months?

Mr. Schiffer: Now we are getting to the second piece of

the question. The first thing I said we had to do was to establish these residual market mechanism pools. We can in fact we believe do that in a six month period of time. If the bill was enacted in December, we think we could be ready by July 1, 1980.

The second piece is to take care of the employment based people who either have no coverage today or who have some coverage and whose contracts require changing. We think for those people who have no coverage and where there are no labor unions involved at this point in time again we could meet a six month after enactment kind of date.

There is a distinct problem as you point out with respect to coverage that is now provided through union negotiated contracts.

Our suggestion would be that you allow some period of time for implementation, some period of time for those labor contracts to in fact be renegotiated. Whether you select six months or a year or whether you select until the end of those existing contract period, I think that is a political judgment that you would make.

There are also a number of employers who provide coverage without respect to any existing union agreements. We have somewhat of an administrative problem in trying to do all of that on a single effective date, let's say July 1, 1980. It does present a very large administrative burden to handle that

much change in one short period of time. The way the group insurance operates, each of these contracts come up for renewal once a year. It would make sense to us to try to phase that process of increasing the coverage to the required level over the period of one year as each of these contracts come up for change.

Chairman Long: Let me ask one additional question. I want to take another look at this question of whether we are going to require the employee to pay some of his money into it. If we simply put it on the basis that you are mandating this to the employer, he does not have to negotiate with anybody. He can just look at his existing policy and say whatever is not covered in this respect we hereby cover it and pay something extra.

Is that not right?

Mr. Schiffer: That is a possibility, sir.

Chairman Long: He does not have to negotiate to provide a benefit to somebody. He has to negotiate if he is going to require the employees to add something. He could say if you had to stay in the hospital beyond a certain date, we will pay for it. You would just be providing an add on to an existing policy.

Mr. Schiffer: I think that is certainly more possible and more acceptable where there is not union negotiations. It is true of all employers and particularly of those who have

union programs that they like to think their fringe benefits are worth something and that it is part of a total package of fringe benefits and they would like to consider any increase like this even in a mandated framework as part of the total package and see how that might impact on other pieces of it and in effect get some credit for providing this.

Mr. Champion: Mr. Chairman, they view that as a part of the payroll package.

Senator Ribicoff: Once that is done they are going to negotiate all the way down the line to see where it comes out. You have another problem. How many separate medical societies are there in the United States based on county, city, statewide? Do you have any idea, Mr. Champion?

Mr. Champion: No.

Senator Ribicoff: A lot.

Mr. Champion: There are a lot.

Senator Ribicoff: Now you are going to have to establish fee schedules if you are going to have cost containment. You have to have fee schedules.

Mr. Champion: We generally use the figure of a little over 200 natural negotiation areas in the country. There are 205 health planning agencies.

Senator Ribicoff: You can just figure out if you think you have a headache, to sit down with those 200 and start working out fee schedules for a couple of hundred thousand

doctors, whether you can do that in six months.

Mr. Champion: I would like to ask one other question, Mr. Chairman, and it has to do with the states. The Minnesota and Connecticut things both required changes in state law. Unless this legislation were to set up a standard pattern and impose it on all the states with respect to these pooling arrangements, there is a lot of work to be done in state legislatures which again is a major problem in terms of the timing of this proposal.

Mr. Schiffer: Our proposal would provide for some opportunity for the private insurers to act in concert with each other without the need necessarily for state legislation, enabling legislation. You would have to give us that kind of authority if we are going to get the job done in six months.

Chairman Long: That sounds fair.

Senator Ribicoff: Mr. Chairman, you are going to get Mr. Kennedy in there from the Judiciary Committee.

Chairman Long: Let me just say this to my co-sponsor. Please do not raise any more problems faster than we can find answers. I have found a couple of answers here and you have found about six problems while we are finding two answers.

Senator Ribicoff: They are there. Mr. Chairman, I want this to be one of the jewels in your crown. I do not want this great proposal of Senator Long's which I think is one of

the most important pieces of legislation, get to be a whipping boy as we go along with a great confusion for 230 million people. I think it is worth doing and it is worth doing really right and carefully if we are going to make it succeed.

Senator Danforth: Your answer was conditional. The ease of implementation was dependent upon certain assumptions that you made with respect to the direction in which the bill is taking.

Are there any particular directions in your opinion which it could take or might take or which have been suggested which would create tremendous delays and administrative difficulties?

Mr. Schiffer: Certainly Senator Ribicoff mentioned one of them. If a prerequisite of establishing this plan was to set up a whole system of negotiated fee schedules with physicians we could not in fact, Senator, pull that one off in six months.

Senator Danforth: What else?

Mr. Schiffer: The further you move from kind of traditional insurance practices the more difficult it is for us to get there. I do not think anything else that you have discussed up to this point in time would in and of itself constitute any kind of major problem for us. It could be as we go along an accumulation of little things might break the camel's back. We would be glad to work with you and let you

know if in fact we reach that point. So far we have not heard anything.

Chairman Long: It seems to me that if we are requiring that you insure employees for certain benefits and we give a tax credit insofar as they are being required to do more than they are doing already. If we do those two things, it seems to me we are requiring you to do certain things in addition to what they are doing already. We presume what they are already doing will be continued. We are requiring you to do at least this much.

If the kind of things we are requiring you to do is something that you think you are very well capable of doing then I do not see where we are going to have a problem about the union negotiations because if you are already providing that much, that is it. If you are not providing that much, you just take out the policy and you say here is something. You just look at all the benefits. You have no problem as long as the old contract makes you provide something extra but where this requires you to provide something in addition to what you have already been providing, that is an extra cost that the employer would have to bear.

If you are doing it that way you do not have to negotiate with labor and you do not have to negotiate with state governments either. You can say here is what the Federal Government makes us do and you can do it.

The employer in paying this would have this tax credit to help him pay it. That is his business. He just claims a tax credit. That is between him and the Treasury at that point.

It seems to me if we do it the way we should be doing it, we can fix this so you do not have to negotiate with all these different people and go hat in hand to these state legislatures. I think we should try to do it that way.

We are putting a burden on the employer and maybe a burden on the companies but on doing that and providing a tax credit to help do it with and having to make that money back up somewhere, having done that it seems to me you should be able to go out and do the job provided it is a job you think you can do.

Mr. Schiffer: I think under the circumstances you have described you have made it about as easy for us as you possibly can, Senator.

Mr. Constantine: Mr. Chairman, obviously the effective dates would depend on the best estimates in the final package in the way of decisions as you have pointed out.

The other point we would make is that the Blue Cross Association which is represented here, does not necessarily share the views of the Connecticut insurers and I gather their representative reserves the right to comment as to how fast they can implement dependent upon what the package looks like.

Chairman Long: Let's try to get a package together

before we get back to the effective dates. The Senator has a point that depending upon what the package is, that affects the effective dates.

What is the next point you can direct us to?

Mr. Constantine: On page five, Mr. Chairman, there is the question of whether the bill will include the establishment of risk pools on some basis, statewide, regional or national for high cost, high risk groups or individuals to provide a cap on the cost of coverage and access to reasonable coverage.

In the insurance industry now it is not uncommon to use pools for auto and so on and there are some health insurance pools. Connecticut has one and I believe there may be others.

The Administration's proposal would establish a Federal pool, a health care pool, in which all employers with fewer than ten employees would be required to enroll their employees. There is a federal pool established in the health care program.

The question is whether the Committee would want to mandate that the approved insurers, the certified insurers must participate in pools on some basis proportional to their premiums to assume the risk and reward for those employers who cannot otherwise get coverage at a reasonable premium, high risk individuals and so on.

Ordinarily as I understand it the pool rate for example

in Connecticut is established at a maximum. The premium is 50 percent above the average premium charged for groups having fewer than two employees. There is that benefit in there. There has to be some residual coverage mechanism, someone to pick up people who cannot otherwise have access to coverage at a reasonable premium.

Chairman Long: Maybe the companies can tell us how to best handle this pool thing. As I understand it, in the large states, the states are big enough to pool. Is that correct?

Mr. Troy: Senator, the two states who have pools now are Connecticut and Minnesota. From the point of lead time, I think both of these statutes were enacted about six to eight months before the pools had to begin issuing policies.

I think we would have the view that the larger states would all be large enough where the pool for a given state would be the right number whereas for some of the smaller states regional pools would probably be appropriate.

Chairman Long: Why not have your people get us a suggestion? Rather than us having to go and get the states to pass laws, if you would suggest to us what the reasonable groupage would be such as in some of the small population states, you should put them in a regional group. Is that right?

Mr. Troy: Yes, Senator, that would be reasonable.

Chairman Long: We could still do that by Federal law.

We could say the insurers in the State of New York and the insurers in the State of Pennsylvania will pool their risks. We could pretty well do it about the way the industry thinks it should be done. If we establish the pools by Federal law that the insurers in those states will do it, where there is regional grouping it is obvious that a state legislature cannot very well change that because they cannot change it for the other states.

As far as I am concerned I do not think they would have any particular objection as long as it does not conflict with what we are trying to do for the state legislature in New York or Connecticut to legislate about their insurance pools.

Mr. Champion: Mr. Chairman, I think we have more fundamental arguments against pools. If you do adopt pools there are different ways to do it. What I would like is I would like to have Dr. Mongan set forth our sort of basic view about the pool situation and the way to handle this problem in terms of the Administration's proposal.

Chairman Long: Go ahead, Doctor.

Dr. Mongan: There are three issues that we have to deal with when we are talking about the residual catastrophic or major medical coverage. One is the level of protection, whether you set it at 150 percent of what it costs groups to get coverage or 125 percent, whatever level you are going to say everybody can come in and get protection at.

There is a second decision you have to make which is how you want to finance whatever subsidy you are left with. Is the financing mechanism going to be a premium, a surcharge on premiums that other people pay or is it going to come from general revenues in some fashion.

The third issue and the one that was more closely discussed here is the issue of what administrative mechanism you are going to use. Are you going to use a series of pools in each state? Are you going to use one Federal kind of pool or a variant of that is this Federal health care program which becomes our residual answer to people who cannot obtain coverage privately.

To just summarize our concern with the state pools, one is we have some serious concerns about administrative problems of having 50 separate pools when we are having a national Federal mandate that this kind of coverage be provided. Is it going to be different coverage in each of the 50 states due to the administrative regulations set out for the pools?

I think our second concern is our bill calls for essentially at this time a general revenue subsidy for excess costs rather than a premium surcharge which is the way these pools are currently financed in the states. A surcharge is tacked onto premiums other people buy to make up the deficit in the pool.

Our third concern with the pool is how you integrate.

The pools thus far have been basically pools by the private insurers, Aetna, Prudential and Connecticut General. How do you integrate Blue Cross Blue Shield into those pools and even more troublesome how do you integrate self insurers into those pools?

Many of the large employers are now deciding they want to self insure and not use the insurance industry. They have decided not to send their check to Aetna for example and now if this pooling arrangement goes in, they have to send a check for the surcharge to Aetna.

We are concerned that there are a series of problems, the major one being the uniformity with the state pools. We are more interested in a Federal mechanism which in our bill is health care. Jay has talked about some kind of a Federal pool. Whatever decision you make, I think the three decisions have to be made, what the level of subsidy will be; what the financing mechanism will be and then what the administrative mechanism will be.

Mr. Champion: Mr. Chairman, there is just one additional point and it goes back to something you discussed earlier and that is if you use the premium surcharge and we have an employee participation in that premium which we believe we do, you are in effect surcharging an employee of one firm to deal with the problem of an employee of another firm. You are not just doing this among employers. You are also affecting the

employee structure and who pays for what.

We have felt that it was better to deal with all of that through the tax structure rather than to get into it through some premium structures that are dealt with by the insurance companies.

Mr. Constantine: Mr. Chairman, I do not believe and the insurers can answer, that all of the pools necessarily operate at a loss requiring a surcharge. Some of them are self sustaining where the premiums are established at levels which do meet their obligations.

I guess you might require that pools be of a size to avoid pools which are too small but we fail to see why it is any more of a problem to have uniformity in benefits, even if you had 50 state pools than where you are dealing with 700 insurers. You have 700 different insurers who might be qualified to provide coverage under the catastrophic program. You have just as much of a determination of uniformity of benefits there as you do with the pool coverage.

Mr. Troy: Mr. Chairman, may I respond? Speaking about the number of state pools and we agree that perhaps some of the smaller states might not call for a single pool but the fact is once they are set up and operating these state pools operate just about like a regular large group case. We have indicated that we can set them up in six or eight months as we have demonstrated in Connecticut and Minnesota.

I think the subsidy issue deals with whether you are talking about the low income people or just regular uninsurable people. There could be a facility through the pools for general revenue subsidy of low income people who did not gain coverage through the employment based market. I think that is a matter of whether you establish one large Federal pool and have general revenues flowing directly into it or whether you have the general revenues flowing into the state pools which we believe we can administer that fairly effectively.

As far as the Blue Cross and self insurers are concerned, in Minnesota, Blue Cross and the self insurers and the health maintenance organizations and all the commercial insurance companies are in the same pool under the statute. In Connecticut we do have a separate pool. One pool has the HMO's and the self insurers and commercial insurance companies and the other pool has Blue Cross. All three pools in the two states operate essentially the same.

We feel it would be necessary for all financing mechanisms, HMO's, Blue Cross, insurers and self insurers, to participate in the funding of the pools since one of the basic purposes of them is to ensure the substandard risks. Under our proposal we expect the carriers would absorb the excess morbidity or losses coming out of the substandard risks. That would not have to be subsidized out of the Federal Government.

Chairman Long: All we have to do is require that each carrier participating in this program must participate in the pools of the areas where those carriers are operating. You say employers of each state will be required to have a pool in that state with the exception of the following states and then you pick out whatever small states you do not think are big enough to give you an adequate spread of the risks and in those states you say these states will be grouped into regional groups consisting as follows. You list them as Region 1, Region 2, et cetera, of the less populous states.

Mr. Constantine: Mr. Chairman, I think it would be very important and fair if the Committee heard the Blue Cross people. They differ somewhat with the insurance industry as to pools and the role of the pool. We think you may want to get their perspective.

Chairman Long: Let's hear from Blue Cross.

Mr. Cole: With your permission, Mr. Chairman, I am not sure we differ but let me make clear what we in Blue Cross and Blue Shield would like.

We would like the option to have a pool or pools regional or nationally apart from the commercial carriers. It will establish additional competition perhaps into this arena. It would let us set a track record separate from each other all based on the assumption that we would have reasonable upper limits on the subscription income rates or premium rates that

we could charge in the neighborhood of the 50 percent that is now permitted in Connecticut.

Senator Ribicoff: What is the percentage of people covered by the Blues and by the commercial insurance companies in this country?

Mr. Cole: We think we have 40 to 45 percent of the insured population covered under Blue Cross or Blue Shield contracts of the private market. That is apart from our Medicare and Medicaid role.

Dr. Mongan: Mr. Chairman, I think this kind of underscores the concern we had in the Administration that if you have a separate Blue Cross pool and then a separate self insurer pool you are looking at a possibility of up to 150 different pools that you have to worry about integrating.

Mr. Champion: We also have the concerns of the HMO's. Competition becomes very hard to build into a system controlled entirely by the private carriers. HMO's will have problems. Self insurers will have problems with this. As a matter of fact even in the Minnesota situation I am informed, they are now asking for subsidies from the state legislature for that pool because they can no longer handle the spreading of high costs of small employers and other kinds of business.

I think we are talking potentially about other problems here that are different than the insurance companies are now encountering in terms of their voluntary pooling or the ones

they have worked out in Connecticut and Minnesota.

I do not think we will get anything like the level of competitive activity in this field under these pooling arrangements that we can get by following a different approach.

Senator Ribicoff: Mr. Champion, would you supply the Committee with your estimates of the number of people covered by private insurance companies, covered by the Blues, covered by HMO's and the self insurers?

Mr. Champion: Yes.

Chairman Long: I would like to see all the different alternatives laid before us so we can see which way appears to be the best.

Mr. Constantine: Mr. Chairman, the pool is not really where the competition is. The competition is among the individual Blue Cross plans and individual insurance companies. The pool is a catchall when all else fails.

Chairman Long: You are talking about a high risk person.

Mr. Constantine: Or employer, yes, sir.

Mr. Champion: Who pays what for those people under what conditions is a matter that still exists under those pools.

Mr. Constantine: That is right, Mr. Chairman. We are simply saying that is not the primary area of competition.

Chairman Long: If you are thinking about it as one pool and as one national pool which is the way I would tend to

think about it if I was sitting in the Department of HEW, a national problem and a national pool. Everybody who wants to come in here and say that he cannot get insurance somewhere else, we sign him up.

If the private insurance companies are going to do this then each of them have to take their share of that risk.

Mr. Champion: I agree with you, Mr. Chairman. We do think of it as a national problem and as a national problem you can make provisions for competitive things with HMO's or with self insurers and so on in a way I do not think we could do with 50 different pools.

I think the question as far as we see it either becomes a question of whether you have that pool operated by the carriers or some combination or whether in fact you use to deal with that high risk situation, you create a residual capacity in health care. We think those are the fundamental choices before the Committee.

We prefer the health care thing for a number of reasons but there is that alternative in terms of the national pool where you can deal with these problems and get at some appropriate competitive incentives. I do not think we can do that with separate state pools.

Senator Baucus: How many people are high risk? What percentage of employees would be categorized as high risk and therefore covered in some kind of tentative pool arrangement?

Mr. Troy: Senator, nationwide there is probably in the area of three to four tenths of one percent of the population who are in a classification where they cannot buy insurance because of their condition of health. Essentially these are the people we are talking about. There may be lesser groups of them left after mandatory employer based plan requirement went in with the broadened definition of dependents' extensions of coverage and for example extending coverage for 90 days following termination of employment. The normal situation picks up about 75 percent of the employed people in the country.

I think from the standpoint of HEW, they may be viewing these substandard pools as taking in a much broader piece of the population than we do. I have heard a lot of references to small groups. There seems to be a feeling that the small groups will not be able to obtain coverage in the private market. The fact is it is in the small group areas where competition is most vigorous today.

We would expect very few groups even of the smallest size to end up in these pools. For example, right now in Connecticut I think we have four groups with a total of 12 people who are covered under the pool. In Minnesota, I know it is a very small number of group plans that end up in these pools. Group coverage is generally available at standard rates to even the smallest employers and through the

encouragement of a Federal statute it could even be more broadly available.

Chairman Long: You are saying a very small percentage of people will not be eligible for the group coverage.

Mr. Troy: That is right.

Chairman Long: If you are looking at a group and you have 1,000 employees and their children, would you look at each individual in that group and then say this is a very high risk person?

Mr. Troy: Absolutely not. There would be no idea of selecting out members of the group.

Chairman Long: If you are bidding on a group, you would take the whole group. I take it if you looking at a small payroll of just one or two employees and you say that is a very high risk employee and we would be reluctant to take that risk and we will put that in the pool. Is that the idea?

Mr Troy: That would be possible. As I say in Connecticut the proof is over two years of operation we have one or two groups that have ended up in a pool. Only one or two employers in the whole State of Connecticut could not get coverage through the private market at standard rates and felt that they had to end up in a pool.

I think if you look at the population and you think about a mandated plan with the broadened definitions of dependents and extensions, then you add to that the normal Medicare and

Medicaid populations, who do you have left? A whole bunch of those people who are left are healthy people that are self employed or what have you and would and can buy insurance either on a strictly individual basis or an association plan.

We have a much narrower view of where these pools would end up in the long run. We do not think the problem would be worth the establishment of an HEW federally administrated pool that is necessary is any event.

Mr. Champion: We think there is something like 11 million people in this non-employed non-aged and non-poor group who do not have adequate access and the pools do not get at those problems or those people so that whereas we may get coverage for 90 days for some of them, once it goes beyond the 90 days they disappear out of the insurance system.

Mr. Constantine: Mr. Chairman, the liberalized eligibility requirements that you have for dependency according to the data will pick up a lot of people who are in an household headed by an employed worker. It would pick up a lot of those people. The view is the pool would also be a resource where individuals, self employed or others who cannot get coverage at a reasonable premium would have access as well.

Then the question goes back to what you said earlier, Mr. Chairman, when you get to the low income considerations as to whether you want to proceed to subsidize some of that

purchase for whoever you have defined as an impaired risk or low income risk at that point. The pool is a catchall residual mechanism for those kind of things.

Chairman Long: We can handle the pool two ways. One is you can require that all in an area must participate in pools for individuals who cannot obtain insurance at reasonable rates. If we need to, you can require they must all participate in it and then you can require also that if they cannot raise enough money to pay for it, we can appropriate something into it or give a tax credit or whatever.

I take it the industry must prefer to go either by states but you would hope to have some regional pools and the Administration does not want to have a bunch of them. I do not see why we cannot get you to where you have no more than about 30 pools to contend with.

Mr. Champion: Mr. Chairman, could I put what is a kind of unspoken issue here on the table? That is really the issue of the relationship of the Federal Government to the insurance industry. If you were to get the kinds of conditions we think you would need to get from the insurance company then you would have to have substantial Federal supervision in order to maintain equity and do other things of their conduct of this business in order to spend Federal dollars on it and to make sure it went in the right place.

The insurance companies for reasons I think are perfectly

understandable would prefer to stay with their present structure of regulation and not get the Federal Government into it but then doing that, fractioning this system into different states or smaller entities, then reduces the Federal ability to deal with it. It is in that area of finding some compromise to get a national program with national standards administered on a national basis with the insurance industry where there is not much Federal regulation is our real problem.

Mr. Constantine: Mr. Chairman, we obviously have a ton of carriers, intermediaries and Medicare functioning on a local basis with varying results and productivity and we also have the Federal Employees program where we use many insurers in accordance with Federal standards with a lead insurer operating for the group.

There are precedents for it. If your benefits are specified and so on and your procedures are specified it is really a question as far as feasibility is concerned, one of size and spread of the risks. Now that he has spoken the unspoken, whether you want to have a Federal mechanism as opposed to seeing whether you can achieve the same result within the private sector.

Chairman Long: I think we would have less objection in the private sector if we try to keep it in the private sector. That is our problem.

What else?

Mr. Constantine: On page seven, Mr. Chairman, we have gone into the question of bankruptcies and so on, what do you do where an employer fails and goes bankrupt or otherwise fails to pay the premium and the employee is left for a whole host of reasons as to why the premiums might not be paid by an employer. To protect the employees under those circumstances we discussed the possibility of having an uniform approach requiring that coverage be continued in such cases at least 30 days.

All of these are minimum requirements because insurers would be free to go beyond those as we understand the Committee's mandate, with the right of conversion from the time the employee receives notice on a best efforts basis from the insurer.

It is written on seven. We did not know how else to handle it on an equitable basis.

Chairman Long: Give that to me again.

Mr. Constantine: From the time the employee receives notice from the insurer that the employer has not paid the premiums the employee or former employee has at least 30 days coverage during which he may convert to individual coverage.

Chairman Long: Let's just agree to that until we can find a better answer. Does that take us through what you have prepared for today?

Mr. Constantine: To the supplemental list, Mr. Chairman. The first question dealt with the matter of the self employed where the Committee presumably would be mandating coverage for employees. The question was whether you would mandate coverage of the self employed.

Chairman Long: I would assume we would.

Mr. Constantine: Mr. Chairman, we were suggesting that you not mandate coverage of the self employed but that you do assure them guaranteed access to coverage.

Mr. Champion: Mr. Chairman, if we are working toward a principle of universality here in trying not to avoid a lot of the problems that we have had in defining self employed and non-self employed, it would seem to us the simplest and best thing to do is to simply mandate self employed coverage.

Chairman Long: I think we should.

Mr. Constantine: We had mechanical problems, Mr. Chairman. The day worker who works for four or five different employers, we do not know how you define him or her or how you cover him or her under those circumstances. There are obviously quite a few people in similar circumstances or who work for multiple employers. We did not know quite how to reach those people on a mandated basis.

Chairman Long: How would you reach them, Mr. Champion?

Mr. Champion: It would depend on whether they were part time or not, Mr. Chairman. We do have a definition of part

time. I do not think that is an insolvable problem. We think we can put their hours together in such a fashion that we can come out with the right result. I think that is really a simpler problem to deal with then defining who is in fact self employed.

Mr. Constantine: Our problem was for example if a person works eight hours a day for five different employers during a week, she meets the test of full time employment but who is her employer? Are you going to mandate because she is getting minimum wage that from that minimum wage she is forced to pay coverage?

Those are the kind of awkward things. For those reasons at this point in time, we would suggest for tentative purposes that you not mandate coverage of the self employed but that you do mandate they have access to coverage.

Mr. Champion: Mr. Chairman, we ought to discuss this with the staff. We have in effect dealt with that problem with the same result for that person that Jay has just talked about. Five separate employers eight hours a piece, they are part time. The employer does not mandate and under our plan we give them access as an individual to buy coverage. That is exactly what would happen in that case.

It is the self employed with a definition of some number of hours in a given place.

I really think if we mandate self employed and give

people access with some hours standard as to what self employed is, we are all right.

Senator Dole: I had to go down and be sworn in as a member of the Alcohol Fuels Commission. Have we decided whether we were going to mandate coverage of employed?

Mr. Constantine: We are coming down to that now, Senator.

Senator Dole: That may have some impact as to whether you mandate self employed. It should be consistent.

Mr. Constantine: The question I believe, Senator, is the issue of whether the contributions are mandatory on the employee. We have that on the list. That was kind of passed over by the Committee in terms of whether the employee when the coverage was mandatory, that the employee must take the coverage and must pay up to 25 percent of the premium cost.

Senator Dole: We made ours at the election of the employee and if he did that, he had to participate which gets back to the same argument Senator Schweiker made earlier. If you are paying a little of the premium you might be a little more concerned about what you receive.

Mr. Constantine: We have a discussion on that on page two. It is fairly extensive. The staff has no recommendation on that. It is a difficult one. We are saying it is a political, philosophical and practical problem as to whether you mandate that the employee make the contributions and

must participate. If you make it voluntary, it eases the problems where you have two working spouses and individuals desiring to self insure, persons who for religious reasons choose not to have coverage and those who do not want to have the insurance in return for having that 25 percent of money.

On the other hand the point for mandatory coverage would include things like the probability is the people who would opt out might very well be those people you would want to cover the most because of the point where they might have to be on public programs.

Senator Dole: Has there been any estimates of how much participation would drop if it were voluntary?

Mr. Constantine: We do not know, Senator Dole. Today most group coverages have a minimum enrollment requirement. They do not mandate that all of the employees in a group participate. I guess it is on the order of about 75 percent participation or something of this sort.

This is one that is a real judgment call.

Chairman Long: If we mandate this coverage for the self employed, they would get a tax credit, would they not?

Mr. Constantine: I do not think we quite thought that one through, Mr. Chairman.

Chairman Long: He would not have any payroll, just his own.

Mr. Constantine: Mr. Hoyer says it will not work.

Mr. Hoyer: As you said a moment ago, there would not be any payroll to measure the extent of the additional cost of the coverage.

Senator Dole: He surely pays some tax.

Chairman Long: Why not make it voluntary for the time being and then we will see if we can find a way to cover him. I would like to get him in but right now I have no suggestion of how to do it.

Dr. Mongan: Mr. Chairman, are we talking about self employed or employees?

Chairman Long: Self employed.

The self employed for the time being will be voluntary and we will see if we can work him in later on.

Mr. Constantine: As long as we got to number seven on page two, do you want to make the employee's participation mandatory or voluntary?

Senator Dole: We probably will have a different view there.

Chairman Long: I think we will want to have the whole group discuss it. My inclination would be to simply have the employer pay for the whole thing. If that is the case you do not have to worry about making it voluntary or not. Your bill requires a 25 percent contribution, does it not?

Senator Dole: Yes.

Chairman Long: My inclination is to go ahead and have

the employer pay for it. If that is the case you do not have to fool around with negotiating the union contracts or all these different things that you get into when you have employee contributions.

I would think we will want to discuss that when we have everybody here. Let's pass it over for now.

Mr. Constantine: The next thing was the Committee determined that it did want to require coverage of state local governmental employees. We had to wrestle with what sanctions you use where for constitutional reasons state or local government does not choose to comply. The staff suggests that the sanction be that in order for a state to be eligible for matching or grants under the Social Security Act or localities and so on for revenue sharing, that it must have a program for its employees providing the catastrophic benefits.

Chairman Long: In order for the revenue sharing and what else?

Mr. Constantine: Matching funds under the Social Security Act programs, Title XX, Medicaid and maternal and child health, it must have a program. That is essentially the sanction. It is a little overkill.

Chairman Long: Just to be on the safe side.

Mr. Heineman: Mr. Chairman, you may want to tailor the penalty to the number of employees involved and have some kind of reduction in revenue sharing or Social Security funds

but more precisely tailored so you do not have the A-bomb problem.

Mr. Constantine: I think Mr. Heineman is suggesting that the revenue sharing or grants not be reduced absolutely but in proportion to the failure to participate in the program. You could make it shall be reduced by twice the premiums or something of that sort.

Chairman Long: One hundred and fifty percent of the estimated premiums.

Mr. Constantine: Something of that sort, shall be taken out of their Social Services money or revenue sharing in the case of localities.

Chairman Long: Revenue sharing is the one most likely to get the attention as long as they have revenue sharing.

Mr. Constantine: With a fallback on Social Security or maternal and child health or social services.

Chairman Long: I think we should put it on revenue sharing, as long as they have revenue sharing at the state and local level.

Mr. Constantine: At state and local where they do not provide the catastrophic coverage. We had to come up with some sanctions, Senator. The Committee made a decision that state and local must participate and now what do you do when they do not bring in their employees.

Chairman Long: I would just say they are not eligible

for revenue sharing period.

Mr. Constantine: No revenue sharing unless they do it.

Chairman Long: Hold up their check. They will come and inquire as to why they did not get that check and you can say you owe us something and you did not take care of your obligation. You could make it optional for them to participate and then as an incentive to participate you simply be real nice and say it is optional and the states have the option to participate and say the states that do not participate will not receive the revenue sharing money. It is not a penalty it is just an incentive to participate. Withhold the revenue sharing money.

Mr. Constantine: If you drop the revenue sharing for the states you would use some other program?

Chairman Long: Worry about that when we do it.

Senator Dole: An odd-even approach.

Senator Baucus: Is the thought here that states would necessarily participate?

Mr. Constantine: Yes, sir. The Committee made a decision to require state and local and we had to figure out some sanction to recommend to you.

Senator Baucus: That is my understanding because you started out with the A-bomb approach. Why are we fooling around with all this? Why not just mandate it?

What is the constitutional problem?

Mr. Constantine: Mr. Hester is legislative counsel.

Mr. Hester: The Federal Government can mandate things using three powers of the Constitution. One is the tax power, the commerce power and national defense. You have to arrive at these things indirectly sometimes by using either a penalty or a reward. The Federal Government cannot mandate certain things that the states do directly. That approach has been used in the past such as imposing a Federal tax and then give the states a credit against that tax if they put into place an unemployment compensation system that comports with the Federal standards.

Senator Baucus: I understand that but this is not a highway program, an interstate highway program for example. It is a national catastrophic insurance program. It seems to me that we could mandate it.

Mr. Hester: There is also the idea that the Federal Government is not supposed to tax the states.

Chairman Long: You are saying we should share some of our tax revenues with the states. We have some conditions on it already.

Mr. Hester: I see nothing wrong with your approach whatsoever. He was saying just tell the states they have to do it and not worry about it.

Senator Baucus: If the thought is they all will participate and we want them all to participate, why go around

and indulge all problems of revenue sharing and Social Security?

Chairman Long: All I know is we have a tried and true method of just saying if you do not participate you do not get this.

Senator Dole: I guess all of them accept revenue sharing.

Chairman Long: They have not been known to turn it down.

Senator Dole: Some have when the checks were small.

Mr. Constantine: The dilemma is that is a legal device and those are very heavy penalties and Congress is generally reluctant to assess them.

Senator Danforth: Mr. Chairman, if we are going to take the approach that we are going to mandate states to participate and the method used to enforce it is to cut off revenue sharing, I think we should have a vote on that. I am opposed to that. I think it is contrary if not to the letter at least to the spirit of the Supreme Court's decision in that wage and hour case. It is contrary to the concept of revenue sharing as I understand it where our effort is not to use the spending power of the Federal Government to maneuver states into one kind of position or another.

I happen myself to be a child of state government. For eight years when I was Attorney General we just spent all of our time trying to figure out how to satisfy the latest whim

of the Federal Government. I think there is the basic principle at stake here no matter how worthy the concept of health insurance is, I do not like to see revenue sharing really altered for this kind of purpose.

Senator Dole: We were asked to speed up Social Security collections. Has that been done?

Mr. Champion: Yes. We have begun that process. We are not yet collecting. There was an 18 month period that had to run.

That is all set in place and that will begin to happen.

Mr. Constantine: Senator Danforth, it is the staff that suggested it. We were looking for against the decision that you mandate coverage of state and local employees, if you made that voluntary with the state and local governments then there would be no need for some kind of sanction to require participation. The idea of the revenue sharing came from us. It did not originate from any Senator. We were looking for some mechanism to assure it.

Senator Danforth: This is the old slippery slope on revenue sharing, the notion as I understood revenue sharing was that the states were going to be given some capability of operating effectively but Washington was not going to make their decisions for them. If they did things wisely or unwisely, that was something we would entrust to them.

One of the greatest single source of the Federal

Government absolutely taking over where decisions are made in this country is through the granting or withholding of Federal funds to accomplish its purposes. It has been done with block grants. Now we are talking about doing it with revenue sharing.

I think it is totally the wrong approach. I question under that Supreme Court case and I am not going to voice a legal opinion because I have not researched it but I really question constitutionally whether you can make a decision on state or local employment practices and so on of this kind.

Mr. Champion: Mr. Chairman, with respect to revenue sharing, that clearly does not need to be brought in. We can use Social Security Act funds or other places in order to deal with the payment of this penalty. To get into the revenue sharing thing is probably unwise in terms of the basis of the revenue sharing.

To get into health, welfare and safety funds that we provide through the Social Security Act is appropriate.

We would not object to going away from revenue sharing but we think we should have some recourse.

Senator Danforth: We have some subsidies in this bill which are built in which in effect say to employers under certain circumstances we will help you because you are participating. I take it that would apply to states as well, would it not? We would be providing some help if they did get

themselves involved in it.

I think the revenue sharing thing is really a proversion of a good idea but I think somewhat the same concept exists whether you use revenue sharing or whether you use the Social Security collection or however you go about accomplishing it. It is the old notion that when we give states and local governments some funds, we have really got them. We have them by the throat not only with respect to the specific program they are administering for us which is fair, we are paying for a service and we can direct that service but we are going beyond that immediate service we are paying for and we are going to use the leverage power of the dollar to leverage as many decisions as we can possibly get away with.

Chairman Long: What will it cost us to say they do not have to do it but if they do it we will pay half the cost of it?

Mr. Stern: Mr. Chairman, you have already agreed on the employer side to pay 80 percent of the new cost above 102 percent.

Chairman Long: The state cost should not go above the two percent.

Mr. Constantine: Many states probably have coverage today, Mr. Chairman. Many states probably offer coverage in their programs which equal or exceed the mandatory coverage.

Chairman Long: Why not use the same type of approach

and say to the extent their burden increases by providing this, that we will pay half the costs?

Mr. Constantine: Or treat a state or local government the same as any other employer and they would receive a rebate in lieu of a tax credit.

Mr. Champion: Yes, on a transitional basis.

Mr. Constantine: Then it would be voluntary with state and local governments.

Mr. Champion: That is consistent with the basic notion that we are talking about a national health plan and not to serve the states or the counties but to serve individuals.

Chairman Long: We are talking about paying how much of it?

Mr. Stern: First the employer pays two percent and above that the first year the Federal Government in this case would rebate rather than give a tax credit, eighty percent of the additional costs mandated and 70 percent the second year, 60 percent the third year and 50 percent thereafter.

Mr. Champion: Mr. Chairman, we are talking about doing this as a mandatory thing, not as being voluntary, are we not?

Senator Danforth: It just shifted.

Is there any legal opinion that you can do that?

Mr. Champion: We have had it repeatedly in the area of Social Security and that it was constitutional.

Senator Danforth: They have an absolute right to opt

out.

Mr. Champion: I am talking about in the law. I am talking about the constitutional opinion that we have is it could be made mandatory. We are looking at that issue now in this Commission and looking at universal coverage. It is true that the law does provide they can opt out but the constitutional opinion we have is the Congress could mandate it.

Senator Danforth: Under that wage and hour case?

Mr. Heineman: I have not read the case either. I think you can do it indirectly by withholding funds as a sanction. You could not require it directly.

Senator Danforth: That is a matter of policy to me that is absolutely wrong even if it is within the letter of the Supreme Court's decision which is to me dubious.

Mr. Constantine: Mr. Chairman, as we understand what the decision is at this point, the same subsidy approach would be adopted and state and local political jurisdictions would be able to bring their employees in otherwise eligible on a voluntary basis.

Chairman Long: If they want to insure their employees, we will make a payment to them. We will pay them a rebate. It might take an appropriation.

Mr. Constantine: It is on the same basis as other employers who incur new costs.

Chairman Long: That would be only over the two percent.

Mr. Constantine: That is right.

Chairman Long: If it is below the two percent and I assume they could get it for below the two percent and if that is the case there would not be any additional incentive. Is that right?

Mr. Constantine: That is right, sir.

Senator Durenberger: Mr. Chairman, let me suggest another piece of leverage to at least consider and which might work more effectively with public employees than private and that is make all of their health benefits taxable income through the employee, if the employer does not provide the required coverage.

They are not mandated to take it but if it is not available to them by the employer then the value of the benefits become taxable income to the employees. I think that would create some pressure via the public employee union groups and so forth on the employer to provide the coverage.

Mr. Champion: I think there would be some anyway, Senator. I think if you did that it would be overwhelming.

Senator Danforth: What are you doing, taxing unrealized income?

Chairman Long: I am not sure I understand the proposal.

Senator Durenberger: That the cost of health benefits would be taxable income to the employees.

Mr. Champion: If the employer did not provide the kind of coverage mandated by the Federal Government.

Senator Danforth: I do not agree with that.

Chairman Long: Why not just leave it for the time being on the basis if they have additional costs we would pay at least half of it and if we do not pay the half and if it exceeds the two percent we will pay 80 percent of it. I guess we should leave it the same way it was, anything over two percent, we will pay 80 percent.

Mr. Constantine: Otherwise you would have the same problem with non-profit employers.

Mr. Stern: Mr. Chairman, did you have in mind for private employers that would be a refundable credit?

Chairman Long: If we can give them the credit against the Social Security tax, you do not need to have it refundable.

Mr. Constantine: Mr. Chairman, do you want to get the easy ones out of the way?

Chairman Long: Yes.

Mr. Constantine: We had to deal with the employees of the Commonwealth of Puerto Rico and various territories as to whether they would be mandatorily covered and staff would suggest the coverage apply to employees in those jurisdictions except where the Chief Executive of the territory or the commonwealth formally requests withdrawal from the program.

Chairman Long: They would have to pay into it?

Mr. Constantine: Yes, sir, the same as anyone else.

We had item five which was coverage following termination of employment and other contingencies where the Committee had made some tentative decisions. The Dole-Danforth-Demenici approach was where someone loses his job during unemployment and if he had worked for more than three months he would be covered for at least 90 days. If he had worked for less than three months that number of days but not less than 30 days.

We would suggest with respect to that decision that anyone who has worked for more than 90 days, three months, be covered for at least 90 days but instead of requiring the employer to keep a record of someone who had worked for him for 46 days and notifying the insurer, for anyone who works for less than three months, there be a 30 day continuation of coverage, just a uniform number.

Chairman Long: If it works less than three months he gets 30 days.

Mr. Constantine: Yes, sir.

Chairman Long: Without objection it is agreed.

Mr. Constantine: The next one was dependent widows, widowers and dependent children for one year following termination of employment as a result of death. The Committee had agreed to that.

The Committee did not come to a decision with respect to

continuation of coverage following divorce or separation. That was one Senator Chafee had raised. We would suggest with respect to previously dependent spouses or children that coverage be continued for at least 30 days following legal separation or divorce.

Chairman Long: Without objection agreed.

Mr. Constantine: Mr. Chairman, in all of the cases in those cases where there is continuation of coverage, we had to figure out what premium would be paid and in these cases we would suggest the employer continue to pay or former employer at the group rate with the employer or the spouse paying the employee contribution if any. It would not be at an individual coverage rate. It would be at the group rate during the period of continuation. When someone is unemployed they would pay at the group rate. All of that would be built into the overall premium structure.

Chairman Long: Are we scheduled to meet tomorrow on this same bill?

Mr. Constantine: Yes, sir, at 9:00 a.m.

Chairman Long: I have to go attend another meeting now. If there is no objection, I would like to move that we recess at this point.

Mr. Constantine: Did we finish on this date, on the continuation of coverage? We just want to know whether we can write it up.

Chairman Long: Without objection, agreed.

We will stand adjourned until tomorrow morning.

(The Committee adjourned at 12:10 p.m. to reconvene at the call of the Chair.)