

SETTLEMENT OF RETROACTIVE SOCIAL SERVICES
CLAIMS

FEBRUARY 7 (legislative day FEBRUARY 6), 1978.—Ordered to be printed

Mr. LONG, from the Committee on Finance,
submitted the following

REPORT

[To accompany S. 2360]

The Committee on Finance, to which was referred the bill (S. 2360) to authorize an appropriation to reimburse certain expenditures for social services provided by the States prior to October 1, 1975, under titles I, IV, VI, X, XIV, and XVI of the Social Security Act, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

I. SUMMARY OF THE BILL

The bill authorizes a fiscal year 1979 appropriation of \$543 million to enable the Secretary of Health, Education, and Welfare to settle outstanding social services claims of the States for the period prior to October 1, 1975 (the date on which a revised social services program under title XX of the Social Security Act became effective). The settlement, which has already been agreed on between the Department and the States, involves more than \$2 billion in disputed amounts. Under the agreements as ratified by this bill, the Department is precluded from recovering approximately \$1 billion which it previously paid to the States for social services prior to October 1, 1975, but for which it subsequently sought reimbursement. Another \$1.6 billion claimed by the States for that period but not yet paid by the Department would be settled according to formulas set forth in the bill by payments totaling \$531 million. An additional \$12 million would be authorized to cover any late claims up to a final cutoff date of 90 days after enactment.

The bill, as referred to the Committee on Finance, would have authorized the appropriation of \$543 million without specifying a fiscal year. This would have permitted the funds to be appropriated for fiscal year 1978. As the Congressional Budget Act requires that

authorizations be reported by May 15 preceding the first fiscal year to which they apply, the committee amendment specifies that the authorization is to apply to fiscal year 1979. The committee amendment also makes a number of changes of a purely technical nature.

II. GENERAL DISCUSSION OF THE BILL

Prior to 1972, the social services program associated with the public assistance titles of the Social Security Act was on an open-ended basis. Federal matching at a 75-percent rate was available for any State expenditures which could qualify as "social services" under very broad statutory and regulatory definitions. States, frequently with the advice and encouragement of HEW regional offices, began to take increasing advantage of this generous source of Federal funding. In some cases, for example, programs which had previously been operated entirely at State cost were reclassified as "social services," and there was considerable expansion of the use of private nonprofit organizations, whose activities were purchased as a social service by the State welfare agency.

As a result of the increased use of the social services funding mechanism, the costs of the program increased dramatically and appeared likely to grow to several billion dollars per year. In response to this, Congress in 1972 established a limitation of \$2.5 billion per year on the Federal funding available for the program. In addition, the Department of Health, Education, and Welfare attempted to narrow the guidelines under which the programs operated, and they began to question many of the claims for reimbursement submitted by the States—including many claims which had previously been paid. The attempts of the Department to change the scope of the program were controversial, and Congress rewrote the legislation governing the program in amendments adopted at the end of 1974. These amendments established a new social services title of the Social Security Act which became effective on October 1, 1975.

For the period prior to the October 1, 1975, effective date of the new title XX program, a large number of social services claims remain in dispute between the Department of Health, Education, and Welfare and 28 States. The Department and these States entered into negotiations over the disputed claims and reached an agreement. Under the agreement, subject to obtaining the necessary legislation, the Department will not attempt to collect those claims which it believes were incorrectly paid, and they will pay a portion of the pending unpaid claims according to a formula worked out in the negotiations.

S. 2360 ratifies the agreements and provides the necessary funding authorization. Under the bill, \$543 million would be authorized to be appropriated to settle the \$1.6 billion in unpaid claims still in dispute.

In addition, \$1.0 billion in previously paid claims for which the Department has been seeking repayment would be forgiven. The settlement formula is shown below:

HEW WILL PAY THE STATES THIS PERCENTAGE OF THEIR UNPAID CLAIMS

<i>If the unpaid claims are 85 percent or more of the total amount in dispute (unpaid claims plus amount for which HEW seeks repayment) ¹—</i>	<i>If the unpaid claims are less than 85 percent of the total amount in dispute (unpaid claims plus amount for which HEW seeks repayment)—</i>
58 percent of the first \$50 million	38 percent of the first \$50 million
50 percent of the next \$100 million	35 percent of the next \$100 million
21 percent of the remainder	21 percent of the remainder

¹The States to which this higher formula applies are identified by a star in table 1.

When the above formulas are applied to the claims of the States which were submitted prior to April 1, 1977, the resultant payments to the States will total \$531 million as shown in table 1. Any additional claims submitted between April 1, 1977, and the 91st day after the date on which this bill is enacted into law will be settled on a different basis. These late claims will be honored at a 15-percent rate; however, no State may receive reimbursement for any of these late claims beyond what would be necessary to raise the State's total reimbursement under this bill (for the late claims and for the claims submitted prior to April 1, 1977) above an amount equal to 5 percent of the State's annual Federal funding allotment for social services (based on the fiscal 1973 allotment amounts). If the \$12 million available for settlement of the late claims proves insufficient, the amounts payable for those claims would be prorated so as to remain within the available funding. If the late claims do not utilize the entire amount available, the payment to States with claims filed before April 1, 1977, would be increased if the total amount claimed by the State exceeded \$150 million. This would affect only the State of New York.

The bill, together with the agreements which have been signed with the States, should bring to a close the protracted period of dispute over the social services program as it was in existence prior to the implementation of title XX on October 1, 1975. Except as specifically provided in this bill, no State will any longer be able to pursue a claim for reimbursement for its social services expenditures prior to that date nor will the Department be permitted to reopen any previously paid State social services claims related to that period.

TABLE 1.—SETTLEMENT OF CLAIMS UNDER S. 2360

[In thousands]

State	Settlement			Gross amount of disputed unpaid claims
	Total settlement	Previously paid claims ratified	Partial payment of disputed unpaid claims	
Alabama.....	\$1,032.7	\$1,032.7		
Alaska.....	705.9	705.9		
Arizona.....	5,200.4	5,200.4		
Arkansas*	2,224.8		\$2,224.8	\$3,835.9
California.....	126,280.1	126,280.1		
Connecticut*	28,545.0	6,016.7	22,528.3	38,841.9
Florida.....	40,022.0	29,102.9	10,919.1	28,734.4
Georgia.....	6,321.2	6,072.0	249.2	655.7
Idaho*	664.5		664.5	1,145.8
Illinois.....	220,486.9	188,433.6	32,053.3	87,295.3
Kentucky.....	2,359.0	2,359.0		
Louisiana.....	16,680.5	16,680.5		
Maine*	1,275.4		1,275.4	2,199.0

Maryland*	14,357.2		14,357.2	24,753.8
Massachusetts*	74,701.8		74,701.8	141,403.6
Michigan*	40,931.9	8,389.1	32,542.8	57,085.5
Minnesota*	33,693.9	6,234.2	27,459.6	47,344.2
Missouri	188.1	188.1		
New Jersey*	737.1		737.1	1,270.8
New York	705,210.3	490,787.8	214,422.5	913,916.8
Ohio	10,691.7	4,949.4	5,742.3	15,111.4
Oklahoma	13,829.3	13,829.3		4,150.8
Pennsylvania	4,393.8	2,816.5	1,577.3	
Rhode Island	1,220.3	1,220.3		
Tennessee	480.6	479.1	1.5	
Texas	70,019.4	36,063.5	33,955.9	92,731.2
Washington*	24,649.9	5,581.3	19,068.6	32,876.9
Wisconsin*	42,896.8	6,392.1	36,504.7	65,008.2
Total	1,489,800.6	958,814.6	530,986.0	1,558,361.1

* These States are to be paid on the basis of 58 percent of the first \$50,000,000, 50 percent of the next \$100,000,000, 21 percent of the remainder; the other States are to be paid on the basis of 38 percent of the first \$50,000,000, 35 percent of the next \$100,000,000, 21 percent of the remainder.

III. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the following statements are made concerning the regulatory impact of the bill.

The bill deals entirely with certain disputed claims as between the States and the Federal Government and thus should have no direct impact on individuals and businesses in the areas of regulation, economic impact, personal privacy, and paperwork. The net regulatory impact on State governments should be a reduction in the amount of regulation and paperwork as compared with present law since it resolves longstanding disputes between the States and the Department arising out of the Department's regulatory activities. In the absence of this legislation, there is a prospect of extended further negotiations and, in some cases, litigation which would likely involve a considerable paperwork burden. The economic impact of the bill on State finances is shown in table 1. (How this compares with present law is undeterminable since the situation under present law depends on how and when a settlement is reached by negotiation and litigation of the \$2 billion in disputed claims.)

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill.

The bill was ordered reported by a voice vote.

V. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act, the following statements are made relative to the costs and budgetary impact of the bill.

The bill, as reported, does not include any budgetary items required to be reported on under the Congressional Budget Act since it is not entitlement legislation but is rather an authorization which depends upon a subsequent appropriation. The committee anticipates that the amount authorized will be appropriated and that the outlays of approximately \$543 million will occur during fiscal year 1979. (Whether this actually constitutes an increase in Federal expenditures depends on when and in what manner a settlement of the disputed claims would have occurred under present law—a result which it is infeasible to estimate.) The bill has no fiscal or budgetary impact beyond fiscal 1979.

VI. CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, the following statement is made concerning changes in existing law made by the bill. The bill, as reported, does not modify the text of existing statutes.

