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EXECUTIVE SESSION

FRIDAY, SEPTEMBER 16, 1977

United States Senate,
Committee on Finance,
Washington, D.C.

The Committee met, pursuant to notice, at 10:10 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long, Talmadge, Byrd, Nelson, Bentsen, Matsunaga, Moynihan, Curtis, Hansen, Dole, Laxalt and Danforth.

The Chairman. The Committee will come to order. We can discuss what matters there are before us and any reservations anyone might have.

Mr. Stern. Mr. Chairman, the first item is a small item that was left over from the last meeting. Perhaps you could do that.

The Chairman. Would somebody explain that?

Mr. Morris. Mr. Chairman, on August 5th, the Committee favorably reported H.R. 5675, the Tax and Loan Account bill, which permits the Treasury Department to earn interest on deposits left in banks overnight or longer and to pay service costs to banks, under present authority.

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The bill was jointly referred to the Finance Committee and the Committee on Banking, Housing and Urban Affairs. The Banking, Housing and Urban Affairs Committee added three amendments to the bill. In order to permit the filing of a joint report by both committees, we would like to bring up for the Committee's consideration the three amendments approved by the Banking Committee.

Two of the amendments basically permit credit unions that are Federally insured, or state insured, to participate in the tax and loan account program if Treasury desires to use them as depositories for tax and loan accounts.

The third amendment indicates Congressional intent that investments be made at the prevailing market rates, while giving the Secretary of the Treasury sufficient flexibility to cope with a wide range of conditions.

The Chairman. Without objection, we will agree with that. What else do you have?

Mr. Morris. The other item in connection with this bill is that a joint report can only be filed by one Senator and with the Committee's approval, however the Committee wishes to do it, either permitting Senator Proxmire to file it on behalf of the Banking Committee or have it filed on behalf of the Finance Committee together with the views of the other Committee which approved those amendments.

The Chairman. Let me ask you, was this a revenue bill



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when it started out? Where did it come from, from the House side?

Mr. Morris. Actually, it was reported out by two Committees on the House side, the Banking Committee and the Ways and Means Committee. The reason it goes before two committees is there are some amendments that involve banking laws and there are some accompanying amendments that address the Internal Revenue Code to facilitate the deposit of these funds and the payment of interest on these funds.

The Chairman. It is all right with me for Senator Proxmire to report it, provided that we have an understanding that the report will come from both committees.

Mr. Morris. The Committee Report will show that it shows the views of the Committee on Finance.

The Chairman. If we understand, the conferees will come from both committees, that the House people are to defer to the Finance Committee people with regard -- the Banking people ought to defer to the Finance Committee people with regard to the tax part of it, and that the Finance Committee Senators ought to defer to the Banking Committee Senators with regard to the banking aspects of it.

I do not see why we cannot do business that way. We have done things like that in the past. Did we not do that kind of thing with regard to the pension bill? I am not saying it was everything we hoped for, but that is how we did



1 it.

2 Senator Nelson. Yes, sir.

3 The Chairman. It is no problem. It is all right with
4 me. You can report that, with that understanding.

5 Mr. Morris. Thank you very much.

6 The Chairman. What is the next?

7 Mr. Stern. The next item relates to Social Security
8 financing, Mr. Chairman.

9 The Chairman. Without objection, we will authorize that
10 bill to be reported.

11 What is it, now?

12 Mr. Stern. The next item is Social Security financing.
13 Where you left off last week, you basically had four proposals
14 relating to Social Security financing. We have summarized
15 these in an attachment that you have marked B in the upper
16 right-hand corner, and just to characterize them, the staff
17 alternative gets most of its funding through eliminating the
18 limitation on wages for employer tax purposes and increases
19 tax rates in 1981 and 1990 and results in a long-range
20 actuarial balance by retaining the replacement rates for ten
21 years and then allowing them to decline.

22 Senator Nelson's proposal, it has, instead of eliminating
23 the limit on employer tax completely, it phases in an increase
24 to \$100,000 as the taxable wages for employers. It has
25 tax rate increases in 1981 and 1985 and 1990, and it involves

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1 the transfer from Medicare into the cash fund programs with
2 a partial reimbursement of the Medicare fund from general
3 revenues.

4 It retains the replacement rate constant and does have
5 a longrange deficit of 1.8 percent.

6 Senator Nelson. That chart omits the fact that we
7 increase the tax rates on to 2011 and in that projection there
8 is no deficit at all in the cash benefit, is there?

9 Mr. Stern. I understand that you are considering
10 modifications, Senator Nelson?

11 Senator Nelson. I thought you had that.

12 Mr. Stern. I can do it either way.

13 Senator Curtis' proposal basically was to raise the
14 additional funds through a tax increase in 1978 and again in
15 1979 -- that is, a tax rate increase equal on employees and
16 employers -- and through having price indexing as a longrange
17 method of assuring benefit adequacy.

18 Finally, Senator Danforth did not propose any increases
19 in the Social Security taxes, but rather, a 3 percent surtax
20 on corporate and individual income taxes; covering Federal
21 employees under Social Security on an integrated basis; and
22 he also would have price indexing as a way of assuring
23 benefit adequacy.

24 Those are the four proposals. The table on the back of
25 that attachment sort of compares them as elements.



1 Senator Nelson, if you like, I could mention the long-
2 range funding matter.

3 In particular, with regard to Senator Nelson's proposal,
4 if you add additional tax rate increases of a half a percent
5 in 1995 and then .45 percent each in 2001 and 2010, that
6 results in an actuarially balanced longrange program. That
7 raises the 1.8 percent that is shown on your table as the
8 deficit.

9 Senator Nelson. When you say longrange here on the
10 chart, longrange is through what year?

11 Mr. Stern. A 75-year projection.

12 Senator Nelson. The staff proposal includes a declining
13 replacement rate, is that right?

14 Mr. Stern. That is correct.

15 The staff proposal basically says that you retain the
16 replacement rate for ten years, then you look and see how much
17 money you have got in the fund and the decline really is what
18 it takes to get at a longrange actuarial balance.

19 Senator Nelson. I wonder, Mr. Chairman, whatever the
20 appropriate time is to pass out the material I have that we
21 discussed, and Mike discussed, with HEW?

22 I do not care when it is done. Whenever you think is
23 the appropriate time.

24 The Chairman. It is all right. We can pass it out now.
25 I think we ought to consider it.



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1 Senator Nelson. When the Finance Committee prior to the
2 recess voted unanimously -- everybody who was here, which was
3 a majority -- voted unanimously not to accept the proposition
4 that we would go to general funds to support cash benefit
5 funds in any way, and we all agreed on that. I think the
6 principle is sound.

7 As the one who would conduct the hearings on the plan,
8 we were right at the recess and I thought I had some
9 responsibility during the recess to work up a proposal that
10 did not involve any general fund monies for the cash benefit
11 program.

12 During the course of that period -- Scott Ginsberg has
13 discussed this with Mike, with HEW; has discussed it with
14 Senator Long and with others. The reason we did not get all
15 of the material to you sooner is we have been getting it
16 printed just in the past few days, and I had a preliminary one
17 that I handed out a week ago.

18 Does everybody have this document marked September 15,
19 1977, Social Security Financing Plan?

20 I wonder if I might just summarize here. Sticking with
21 the principle, which has been the principle, I think, of the
22 Finance Committee, that we would not vote any benefits without
23 voting the taxes to pay for them, this proposal therefore
24 includes the taxes to secure the fund based upon the best
25 estimates that we could get as to inflation, as to fertility



1 rates, as to all of those factors. These tax increases that
2 we include in addition to the current statutory increases
3 secure the fund until the year 2050, or 2051. So the fund is
4 secured under the tax proposal of this particular plan for
5 the next 75 years.

6 We may want to do less. I happen to think that we ought
7 to be assuring the people of the country who are going to
8 retire that the benefits stated at a replacement ratio of
9 1976, stable to that period, that they are secure in their
10 retirement fund.

11 Then we list the tax increases, but I wonder if we could
12 take the first page of this chart, and in that first paragraph
13 we state the purpose, which this alternative eliminates both
14 the current short-term deficit, '77 to '82 in the Social
15 Security cash benefit trust funds and the projected long-term
16 deficit existing under present law.

17 So even under present law, taxes would have to be increased
18 by some Congress.

19 This proposal would produce reserves equal to 50 percent
20 of the annual outlays, and that 50 percent, under our assump-
21 tions would be retained, either way, for the next 75 years.
22 It would produce -- in addition, this plan would decouple, as
23 I said, benefits, stabilizing replacement rates at 1976
24 levels.

25 To accomplish these objectives, employers and employees

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1 would be required to pay payroll taxes in excess of those
2 provided in the present law and a portion of the scheduled
3 increase is intended for use in the hospital insurance program.
4 A portion of them would be diverted for use in the Old Age
5 SDI program.

6 Consequently, the HI program would require additional
7 funding beginning in 1983, if health costs containment legis-
8 lation is not enacted. The passage of health cost containment
9 legislation would delay the need for additional funding for
10 the HI program until 1986, if in fact, the containment program
11 was effective.

12 Now, the first item is employer's base. It raises \$40
13 billion in the short-term, which would increase the earning
14 base of employees to \$25,000 in 1978; 1979, \$40,000; 1980 to
15 \$100,000 and the Administration proposal would remove the whole
16 thing totally.

17 We propose going to a cap at \$100,000, but to index the
18 inflation into that cap so that it would go from \$100,000 to
19 \$105,000 and \$110,000.

20 On the reallocation question of the HI revenue on page
21 2, present law provides for three payroll tax increases between
22 now and 1990 and I list them there. Under this proposal, a
23 portion of the first two of these scheduled increases would be
24 reallocated from HI to OASDI, and the schedule is .2 percent
25 in 1978; HI increases, .15. Each would be transferred to

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1 OASDI to a schedule of 2.5 each HI 1981 tax increase, and
2 .05 percent in that year.

3 The increase scheduled in 1986, under present law is
4 .15 each for employers and employees will be used for the HI
5 program and therefore would not be reallocated.

6 So as to the HI, under this proposal, as I said, the HI
7 fund would be secure to 1983, with cost containments 1986.
8 If, meantime, we adopted a health insurance plan of some kind,
9 obviously hospital insurance for the elderly would be covered
10 under it, and that would resolve the problem.

11 On the other hand, if we did not adopt any insurance
12 program by 1983 or '86, if we have hospital containment, the
13 Congress would then have to face as to that program either a
14 tax increase or funds from the general fund.

15 As everybody here knows, at this point the Part A or
16 Part B physician's care is now being funded 70 percent;
17 general funds 30 percent from contributions by the beneficiar-
18 ies. I am told that next year it would be funded 80 percent,
19 the physician's care part out of general funds, 20 percent by
20 the beneficiary, whereas there is that 2 or 3 or 4 percent
21 now going into the hospital insurance plan, I understand.

22 That would be up to the Congress to decide if we did not
23 adopt the hospital insurance program in the next five to eight
24 or nine years.

25 Now, the alternatives. This alternative plan includes

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1 tax rate increases over and above those already scheduled
2 in present law, and I list the percentages there all the way
3 to the year 2011 in which year there would be a tax
4 increase.

5 That, then, as I said, would secure the cash benefit
6 programs under this plan from now until the year 2051, if the
7 assumptions used are correct. If the fertility rate increases,
8 as some predict, the fund will have a surplus. If they remain
9 as estimated here, the fund will be still in balance in the
10 year 2050, with a 50 percent reserve ratio in the fund.

11 In the last paragraph under item 3, page 2, when the
12 increase as scheduled under present law is added to those
13 proposed in each alternative total, OASDI payroll tax increases
14 for employer and employee for each year, 1977, 1980 are -- and
15 I list the Finance Committee plan -- it totals the years
16 increases in the total of 1.60, 1.60 Administration, 1.60
17 under this alternative plan. They simply are scheduled at
18 different rates, at different times.

19 Senator Curtis. Would you yield for a question or two at
20 the appropriate time, or would you rather go on?

21 Senator Nelson. I am talking in more detail than I
22 really should be. Let me skip along, in essence, and get into
23 it. Mike has gone through these, and Scott Ginsberg of my
24 staff has spent a lot of time on them.

25 On the chart that I passed out -- I do not have one



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1 myself here -- on this chart that is two pages, we show the
2 OASDI taxes, tax rate 1977 through 2011, under the present
3 law, under the Administration proposal, under the Finance staff
4 proposal and under this alternative. And you can see the
5 dates that they go into effect.

6 In the year 2011, the rate under this proposed plan will
7 be 8.85 which is 1.4 percent over scheduled rate increases.
8 I think that chart is self-explanatory.

9 We deal, on page 3, with the self-employment tax rate.
10 Everybody has agreed, whatever we do, that self-employment
11 goes back up to the figure one and one-half times whatever
12 the figure the employee is paying.

13 We have a pension-offset provision which Mike will
14 explain to you when we get to that; that is item 7.

15 On page 4, we deal with the question of long-term finan-
16 cing and the amount of money, then we show a short-term
17 additional funding under the financing proposals for '78 and
18 '82 on that page.

19 Now, we have checked all these figures with HEW and they
20 have run them through the computer. I think that I can say
21 that they are satisfied with this proposal in terms of the
22 financing, the date of the financing, the amount of money it
23 will made, and they have done the extrapolation to show it
24 in balance to the year 2050.

25 Two things are not included in here, which are visible

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problems. One of them is the House has taken the position that you should include Federal and state employees coverage under Social Security, which Senator Danforth advocated two months ago or so.

At that time, I said that in principle I favor it, and I do. But it is so complicated that I thought we had to have hearings, and I said I would conduct hearings if I can get them scheduled in November or December, and not later than January, on the question of covering all state and Federal employees by Social Security.

However, I understand that staff does have one that they want to present that would cover Federal and state; that item is not in here.

The other item that is not in here that we are going to have to deal with, because there is no doubt in my mind that the House is going to adopt it, and that is the question of raising the earnings exemption from its current whatever it is -- 32, is it now?

Senator Bentsen. It is now 33, Mr. Chairman. That is the item that I discussed with you this morning that I will be composing. I touched base on that with the Chairman of the full Committee and the Subcommittee, and that is to raise the earnings limitation on Social Security, effective October 1st, '78, to \$4500 from the \$3300, and then in '79 to \$6,000.



1 The problem we are running into is that people cannot
2 live on minimal Social Security payment.

3 Senator Hansen. When is that?

4 Senator Bentsen. October 1, '78, so you would have no
5 effect on the forthcoming budget.

6 Senator Hansen. The second step was?

7 Senator Bentsen. In '79, and that would go to \$6,000.

8 A lot of these older people in effect are having a very poor
9 subsistence and we have got to recognize that some of those
10 are going to be working longer and want to work longer, and
11 we should not preclude them from that.

12 So I will be offering that, as the Chairman of the
13 Subcommittee says, and I would think that we would have to
14 consider additional costs. The estimates we have from Social
15 Security, that was a cost of .085 for the employee, additional
16 .085 for the employer, or .17.

17 It is a cost of approximately \$2 billion, starting
18 October 1st of '79. Well, in fiscal year '79 it would not
19 get up to \$2 billion because you would have people who would
20 apply late for it. But after that, it would get up to that
21 figure.

22 I appreciate the Chairman of the Subcommittee bringing
23 that to our attention. It has been passed by the Subcommittee
24 and Ways and Means by a vote of six to two.

25 Senator Nelson. I do not think there is any question

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1 that this is a serious problem and the earnings limit ought
2 to go up, and it is almost universal.

3 The only problem is the cost. It has been a fundamental
4 principle that if we are going to give a benefit, we are going
5 to pay for it. I have no quarrel with the proposal. In fact,
6 I told Lloyd that I would be happy to join him in that, so
7 long as we levied the tax to pay for it.

8 We might want to wrestle around with what effective
9 dates, whether you do them two years in a row or whether you
10 stretch it out a little. In any event, if the tax goes in
11 there, I am prepared to support it.

12 I have a chart here that HEW prepared for us on this
13 that does show -- and we are getting some more xeroxed -- that
14 does show the projected cost of this proposal of increasing --

15 Senator Curtis. Would the distinguished Senator yield
16 for questions now?

17 Senator Nelson. Yes.

18 Senator Curtis. As I understand your plan, you would
19 immediately --

20 Senator Nelson. Let me say, I do not want it to be the
21 Nelson plan. I was Chairman of the Committee, but we worked
22 as a group.

23 Senator Long has had his input, and Mike, and HEW. That
24 is why we called it the Alternative Plan.

25 Senator Curtis. As I understand the Alternative Plan, the

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1 one that you discussed, it would immediately call for a
2 transfer of funds from HI, Health Insurance, to OASDI. Is
3 that right?

4 Senator Nelson. On page 2, I mention in the first
5 paragraph that present law provides for three payroll tax
6 rate increases between now and 1990. These are just HI
7 taxes, of .20 for employees and employers each in '78; .25
8 in '81 and .15 each in '78.

9 Under this proposal, a portion of the first two of these
10 scheduled increases would be reallocated from HI to OASDI.
11 Of the scheduled .2 in '78, we would transfer 1.5 each; with
12 the scheduled .25 in '81, we transfer -- of the .25 in '81
13 we transfer .05. That is all. We allow the amount to continue
14 going up.

15 You see, it is .9 in HI now.

16 Senator Curtis. In other words, you would relieve the
17 immediate distress of the OASDI by shifting certain of the
18 expected income from the Health Insurance over there?

19 Senator Nelson. If you look down on page 8 under the
20 HI tax rate in 1977 through '87, and you will see what we
21 do. We are at .9 now. We let it go to .95 in '78 because
22 we skim some up, then stay at .95 through '80.

23 Then it would go up to 1.5 in 1985; 1.30, so that it
24 would be at the rate of 1.30 in the year '87, which would
25 mean we had skimmed off from there a total of --

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1 Mr. Stern. It is actually .1 percent, because at the
2 same time, by increasing the wage base as much as you do,
3 the taxable wages are much higher.

4 So in comparable terms, what you have done, in effect,
5 is shift over .2 percent, .1 on the employers and .1 on the
6 employees.

7 Senator Curtis. I am not so much interested in the
8 figures; they are hard to keep in mind. I want to know the
9 general plan.

10 Down here, do I understand that Congress would have to
11 make some further provision for the HI fund, or else turn to
12 general funds?

13 Senator Nelson. Even if you leave the law and the
14 increases the way they are, the HI fund runs out. So whether
15 you skim any of it off or whether you allow the rate increases
16 to go to HI, it delays it about one year.

17 Senator Curtis. If you do not take any of it, when will
18 it run out?

19 Senator Nelson. 1988 instead of 1983.

20 Senator Curtis. By shifting some of it over to OASDI,
21 that changes that to what?

22 Senator Nelson. It changes it to '83. However, if the
23 cost containment legislation passes with a 10 percent limit,
24 then it would be '86. So you are looking at either '83, '84,
25 '85 or '86 before you would have to levy an additional tax,

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1 draw from the general fund, or if you had a health insurance
2 program in the next five to eight or nine years, it would
3 take care of it.

4 Senator Curtis. Another feature --

5 Senator Nelson. I want to make one point. I am reluctant
6 to do that, but we do not want to touch any of the tax
7 benefit funds with any of general fund monies, potentially or
8 otherwise.

9 Senator Curtis. Another source of revenue would be by
10 raising the earnings limitation on the employer?

11 Senator Nelson. Correct.

12 Senator Curtis. As I understand it, only about 16 percent
13 of present employees make more than the cap.

14 Senator Nelson. I think that is about right.

15 Senator Talmadge. Would the Senator yield? "

16 Senator Nelson. '86 or '87.

17 Senator Talmadge. The Health Insurance fund is actuarially
18 out of balance by \$9.5 million a day for the next 25 years
19 each year, in '77 dollars. How are we going to borrow from
20 that fund to finance something else?

21 Mr. Stern. Basically, the way Senator Nelson's proposal
22 does it is by reimbursing the Medicare fund out of the
23 general fund so that the money --

24 Senator Nelson. No.

25 Mr. Stern. I am sorry.

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Senator Nelson. If our statistics are correct, in 1983, without cost containment, there will be more money going out of HI than coming in; and if you did not have a health insurance program or cost containment, that would extend it to '86. If we do not have that, either settle it with a health insurance program or with a new tax, additional tax, or with borrowing from the general fund, or putting general fund monies, as we do now, in the physician's program.

Senator Curtis. Another source of funds that you would raise the cap for the employer only, is that right?

Senator Nelson. Each year, under the current law, the tax base is going up on the employee until it reaches about \$39,800 in 1990, but we do take the cap off the employer -- we do not take the cap off; we go to \$100,000 on the employer under this proposal in three steps, which are listed here, instead of taking the cap off entirely, as the Administration proposal does and as the staff plan does.

Mr. Stern. There is some increase in the base of \$600 a year.

Senator Curtis. I think it is a wise plan to look down the road 50 to 75 years, but I also think that it is not correct, and somewhat misleading, to be too positive, because none of us know of current events economically in this country. We do not know what happens healthwise, lifespan, size of families and the like down the road. But, more



1 importantly, we do not know how many times the Congress will
2 increase benefits in the next 75 years. We are going to
3 have several elections between now and then, in the next 75
4 years.

5 Even if we could guess at that here in this Committee,
6 we do not know how it would be on the Floor.

7 I am perfectly in accord with projecting these things
8 longrange, but I think that we cannot give them more credence
9 and certain guidelines and know what kind of trouble we are
10 going to get into.

11 Mr. Chairman, I do not know what procedure you want to
12 follow here. After all, the alternatives for financing have
13 been explored.

14 I would like about five minutes to state what I would
15 like to do, and it would be my guess that we could arrive at
16 a more satisfactory decision, instead of offering one and
17 voting that down or up, to get them all out on the table and
18 then see what the Committee might do. They might even want
19 a combination.

20 Senator Nelson. May I make one comment before you start?

21 I agree with what Senator Curtis has said. We took --
22 the assumptions we used, there were three assumptions by the
23 Social Security trustees. One was very conservative, one was
24 liberal, one was a middle line of assumptions on fertility
25 rates and inflation on all of these problems. We took the

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1 middle. It may produce a surplus; it may end up not being
2 in balance 75 years from now,

3 Based on the middle line of assumptions, it would be.
4 The reason we went all the way for 75 years, though, was
5 that if you leave any deficit at all, as the Senator well
6 knows, then it is always open for somebody on the Floor to
7 say well, you have a deficit twenty years away anyway. We
8 will put this on and we will worry in some 20 years and some
9 Congress comes along in the year 2000 or the year 2011 and
10 we are in one hell of a bind.

11 I think it would be good from the standpoint of the
12 responsibility of this Committee to do the best we can,
13 project it for 75 years. Then you are in a posture of saying,
14 if you want to change that, if you want to add a benefit
15 between now and then, come up with the tax, and do not give
16 anybody the opportunity to say, you are in deficit anyway
17 after the year 1990. It will not hurt a bit to add some more
18 deficit, and that becomes very hard to resist, as we all
19 know.

20 I figure in the year 2011 that Congress will pass an
21 excellent resolution for our grandchildren commending us for
22 how we saved them from a bad political box in an election
23 year in the year 2010.

24 The Chairman. Let me make this suggestion. I think
25 Senator Nelson, as a responsible Subcommittee Chairman, has

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1 done some very fine work in undertaking to see where the
 2 divisions were between the majority of us on the Committee
 3 and those in the Administration and trying to move us towards
 4 a point where we might be able to agree on some answer to
 5 this problem.

6 We cannot avoid all of these issues. In some cases, we
 7 just have to vote and let the majority decide how they want
 8 to do it.

9 You are suggesting here that we move towards the idea of
 10 putting on the taxes to pay for all the benefits. You are
 11 leaving open, as I understand it, one issue, and that is,
 12 how do you want to pay for health insurance?

13 His thought there is that we have the money for now, but
 14 sometime during the next sometime during the next few years --
 15 I would hope sometime during the Carter Administration, during
 16 the first four years, because nobody knows whether Mr. Carter
 17 will be President three years from now; only the good Lord
 18 knows that -- that being the case, he would suggest, all
 19 right, we ought to be voting on a health insurance bill some
 20 time in the next three years.

21 When we vote on that health insurance bill, we ought
 22 to arrange to finance health insurance, but how are we going
 23 to do it?

24 Obviously, if you take the approach that the more conser-
 25 vative members of this Committee take, you would not have as



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1 near as much money than if you take the approach of the
2 people who advocate that is just for the Congress to decide;
3 it is for the Senate to decide. It is only for us to recommend.

4 We do not know whether to make the recommendation or
5 not. Are we sure at this point what our recommendation is
6 going to be?

7 Aside from that, he is proposing here that we fund all
8 of the burden somewhat consistently with the Administration
9 recommendation, with the exception that we do not propose to
10 go along with the printing press money approach. He proposes
11 to take the view that the majority of the Committee has voted
12 for on that part of it.

13 To me, there is some appeal to provide the short range
14 tax increases that you are going to need by just saying that
15 the employer will pay the tax on almost all of the income.
16 We have a cut-off of \$100,000.

17 Senator Nelson. \$100,000, but indexed to inflation,
18 so it would go to \$102,000 and \$105,000 and whatever.

19 The Chairman. Inflation, yes.

20 I would be willing to vote to put the tax on the employer's
21 part apply to all.

22 Senator Hansen. What?

23 The Chairman. I personally would be willing to put the
24 employer tax for the Social Security, put it on the employer's
25 payroll. He is suggesting you cut it off at \$100,000 and then



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index it at \$100,000 for inflation, which is all right with me, too. I do not think that that makes much difference.

That is a departure from the way that we have been financing it until now, and it seems to me we ought to just vote on it and decide whether we want to do that part of it. If we are going to do that, that answers a part of the problem.

Senator Curtis proposed that we go about it in the traditional way, where you just put half the tax on the employer and half the tax on the employee. I do not find that objectionable, as far as I am concerned. It is whatever the Senate wants to do, and whatever this Committee wants to recommend. It is fine with me, as long as we are trying to responsibly finance this program.

I do not think that the people in this country would approve of us adopting a program that would go into bankruptcy. I do not think this Committee would do this unless we get some advice, unless it is the Department that gets us into some of these tight situations.

I remember when the Commissioner of Social Security came before us, that this indexing would cost us nothing; in fact, we were going to make money by doing it. That is what bankrupted the program.

So we now have to find a way to move it back out of that.

As far as I am concerned, I could go along with the Nelson

1 approach, or along with the Curtis approach. I do find some
2 appeal just for the immediate increase to say that the
3 employer -- who can deduct it, by the way; they can deduct
4 it and the employee cannot deduct it -- and the employer will
5 pay the tax on all of these payrolls.

6 That, I think, is the principal difference between the
7 Curtis proposal and the Nelson proposal.

8 Senator Curtis?

9 Senator Curtis. Mr. Chairman, I will try to be brief.
10 Here is what I would like to propose. It differs from the
11 Nelson proposal in one or two respects.

12 It does not increase the employer's tax beyond the
13 employee's tax. Also, it does not shift funds from the
14 health fund into the OASDI. It does cause for meeting the
15 problem right now.

16 I think we have a serious emotional crisis, as well as a
17 financial crisis, in Social Security. I am in a meeting that
18 some person asks, how about our Social Security?

19 I think the beneficiaries are concerned. I think the
20 people who are about to be beneficiaries are concerned. I
21 think that we can only meet their hopes and aspirations by
22 being a bit courageous in doing it.

23 I also feel that if we equivocate with something that
24 is near taking it out of the general fund, that that is a
25 bit dangerous, because the time will arrive where there is no

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1 money in the fund. We will say, we cannot deny these checks
2 and make a motion that they be paid out of the general fund.
3 So the way to do it is restore the fund now.

4 What I propose would continue it so that beneficiaries,
5 expected beneficiaries, could be expected to draw their
6 benefits in dignity. They would feel that everybody has paid,
7 that the employers have paid half, and the employees have
8 paid half.

9 If you look at the back side of this one-page sheet that
10 the staff has worked out, the Curtis proposal is in the third
11 column. What I would do, I would meet it head-on right away
12 and next year have one-fifth of 1 percent tax increase on both
13 employers and employees.

14 Point two.

15 Senator Nelson. What date?

16 Senator Curtis. Next year.

17 Senator Nelson. Point two?

18 Senator Curtis. Yes. You see that? In 1978, point
19 two. What that does, a \$10,000 a year man gets a tax raise
20 of \$20 a year, less than \$2 a month.

21 It means that the average wage-earner in Social Security
22 that draws less than \$7500 a year would have to pay only
23 about \$14 or \$15 a year.

24 And then a year later, in '79, I would add an additional
25 three. In other words, my contention is that by a half of



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1 percent on employer and employee, that we can meet our problem that we are facing immediately. We can keep the principle that employers pay half and employees pay half. We are not shifting from one fund to the other with the realization down the road that we may have to go to general funds.

I am assuming that we are all pretty much agreed on decoupling and on self-employment and these other things that we agreed on the other day.

So you will see on the very bottom line, this not only puts \$46 billion into the fund right off, but we end up down there on the bottom line with a bit of a surplus.

Senator Nelson. May I ask a question?

Senator Curtis. Yes.

Senator Nelson. The difference between this alternative proposal that I proposed here as well as the staff Finance Committee, that involves a lot of money, is the replacement rate.

Under your plan, where would the replacement rate, which is now at about 44 percent, where would it be 15 years from now?

In other words, you cannot maintain a plus in your plan without letting the replacement rate go down rather dramatically. We have the Finance staff replacement rate. That would drop all the way from a replacement rate of 44 --

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1 If you look on table 22 in the blue book at page 29,
 2 there is a fundamental question that we have to resolve, and
 3 it is a policy and philosophical question. Under our plan,
 4 under the alternative plan here, we put in enough money to
 5 retain the replacement rate at the 1976 level, 44 percent, all
 6 the way to the year 2051.

7 However, if you look at the replacement rate on page 29,
 8 the replacement rate on the Finance Committee plan would drop
 9 in the year 2050 to 31.

10 Senator Curtis. There, again, I think that is a bit
 11 speculative. The fact remains that my proposal will put
 12 money into the fund right off. It does it the hard way.

13 But I think that that is where the political brownie
 14 points are. I think the country is concerned about Social
 15 Security. I believe, notwithstanding that next year is an
 16 election year, that .2 of 1 percent would be a plus for
 17 everybody to vote for it, because the \$10,000 man only has
 18 his taxes increased \$20 and we do not amend any of the
 19 characteristics of the plan that have made it so acceptable.

20 The Social Security has paid the people. It is a digni-
 21 fied retirement. And I am convinced that if we look for
 22 easy ways of raising the tax on the employer and not on the
 23 employee, or shifting funds, or hoping something will happen
 24 later on, that we do not solve our problem.

25 I think that mine is quite understandable. Actually, I



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1 would be willing to vote for a half of 1 percent immediately,
2 but I realize that it has some real problems in it, and
3 certainly a .2 increase in taxes is not a burdensome amount.

4 I remind you that this Committee -- our Chairman originated
5 the earned income credit which eases the burden on the people
6 who work for a living but still get a very small amount and
7 then pay a heavy Social Security tax.

8 Mr. Chairman, that is my proposal. I will answer any
9 questions. I think that it is quite simple, but I would like
10 to see it continued.

11 It is no shift of funds, no immediate or delayed expect-
12 tation of drawing out of general funds. Everybody pays; the
13 employees pay half, the employers pay half.

14 The Chairman. Senator Talmadge?

15 Senator Talmadge. I would like to have some further
16 information. I am looking at the back of the page here at
17 the Finance Committee prepared sheet.

18 I see four proposals before us here. Looking down at the
19 bottom there under the Nelson proposal, is it true that
20 your proposal would leave a long-range balance percentage
21 payroll in deficit 1.8, or have you modified that?

22 Senator Nelson. No, it would not leave it in deficit.
23 It would leave it in balance with a 50 percent reserve ratio
24 in the year 2000.

25 Senator Talmadge. What have you done different than what



1 the staff analysis is here?

2 Senator Nelson. We had not projected the increases --
3 this chart does not project the increase of the year 2000,
4 the year 2011.

5 Senator Talmadge. I notice now that your proposal raises
6 the rate only .1 of 1 percent only for the first year, that
7 is 1981; then 3 percent, 1985.

8 Senator Nelson. Three-tenths.

9 Senator Talmadge. 1985, three-tenths.

10 The short-term would leave the fund out of balance,
11 would it not?

12 Senator Nelson. No. The only thing that goes out of
13 balance in this whole plan at all -- and it goes out of
14 balance under everybody's plan --

15 Senator Talmadge. You raise only \$5 billion through
16 the cumulative year 1982, \$5 billion according to the staff
17 analysis.

18 Senator Nelson. We raise \$59 billion under this plan.

19 Senator Talmadge. You have modified it?

20 Senator Nelson. This is not accurate. This does not
21 reflect what we propose now.

22 The Chairman. Is that correct, Mr. Stern?

23 Mr. Stern. That is correct. Senator Nelson particularly
24 added some more long-range funding.

25 Senator Talmadge. The only thing I would like us to be

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1 certain is that we fund everything that we authorize without
2 , borrowing from one bank fund to try to subsidize another.
3 There is no such thing as one bankrupt plan financing another.

4 The Social Security fund is out of balance now by the
5 tune of \$9.5 billion for the next 25 years. The only difficulty
6 I have with the Curtis program, and it is bold and it faces
7 up to the problem and I compliment him on it, but it would
8 take out of the revenues of this country \$46 billion in the
9 next two years.

10 Mr. Stern. That is the five-year estimate. The
11 figures in parenthesis are the cumulative five years from
12 1978 to 1982.

13 Senator Talmadge. It would not take \$5 billion out, in
14 two years?

15 Mr. Stern. It takes \$46 billion out, but over a five-year
16 period.

17 The Chairman. Senator, here is the point. If I might
18 just interject, looking at what you are looking at, the changes
19 if you dropped down to that third category, you see wages
20 taxable for employers. You see the Nelson proposal picks up
21 \$41 billion down there.

22 That is not in the Curtis proposal, because the Curtis
23 proposal does not propose to extend the tax on all of the
24 employer's payroll the way that the Nelson proposal does.

25 When you add what the Nelson proposal picks up in the short



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run, what it picks up by expanding it to a bigger wage base, you come up with about the same figure, the same \$46 billion that the Curtis proposal has.

Senator Nelson. We are being confused by using a chart that is not the plan that I have made. This is, Senator Talmadge, that \$5 billion up here is just on the employer-employee that you referred to. The Curtis proposal would raise \$55 billion in the next five year period, through '82.

The proposal I have made would raise \$59 billion, so that there is more money and more security in the proposal I have made than in the Curtis one.

Senator Curtis. Where are you going to get \$59 billion by '82?

Mr. Stern. Mostly by increasing the employer tax. He raises the same significant amount of money, but he does it mostly by taxing the employer. The major item is by taxing the employer, where yours is a tax rate increase.

Senator Nelson. Page 4 outlines the exact amount raised and shows that the Administration plan would raise \$72 billion between '78 and '82; the Finance Committee staff, \$75 billion; the alternative proposal, \$59 billion; Senator Curtis' proposal, \$54 billion. Page 4.

Senator Curtis. I realize you have changed your plan some. You are still having \$25,000 in '78; \$40,000 in '79 and \$100,000 in '80, is that correct?

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Senator Nelson. Correct.

Senator Curtis. Those figures have not changed there and the staff has a deficit of \$54 billion.

Mr. Stern. The deficit we have is \$74 billion in four years because of interest. That is raised, too.

Senator Nelson. I was just adding up what is on the chart.

Mr. Stern. That is right. Since he brings quite a bit of money in right away, the interest is worth about \$13 billion over five years.

Senator Curtis. If we added up the alternative, how much additional money would we get in calendar year 1978?

Mr. Stern. \$3.4 billion, according to the table on page 7 of Senator Nelson's material.

Senator Curtis. In '78?

Mr. Stern. That is correct.

Senator Curtis. It would all come from the employers?

Mr. Stern. Virtually all of it comes from increasing the rates on employers, and a smaller amount of interest.

Senator Nelson. There is a '78 scheduled increase under the law.

Mr. Stern. The incremental increase, if we are talking about where the \$59 billion comes from, the answer comes that \$3.4 billion comes in '71 from increasing the base of the employers.



1 Senator Curtis. The amount paid off this year of the
2 amount that comes in is about \$4 billion, is it not?

3 Senator Nelson. On page 6, there is a chart that shows
4 those statistics, and in '77, the net pay-out is minus \$5.5
5 billion in '78 and minus \$6 billion in '79. The plus 3.3,
6 '80; plus .8, '81; plus 8.7 and on down through on OASDI.

7 Senator Hansen. Maybe I misunderstood. You said for
8 '78 a .6? It is 1.6, is that not right?

9 Senator Nelson. Excuse me. It is a negative 1.6 in
10 1978.

11 Mr. Stern. That is under Senator Nelson's plan. The
12 excess of outgo over income over '77, then it goes up in
13 '78, and so on.

14 Senator Nelson. Under present law, the figures are what?

15 Mr. Stern. The \$5.5 billion is the same, 1978 with no
16 change in the law, it is \$7 billion more going out than
17 coming in, so your proposal handles \$5.5 billion of that.

18 Senator Nelson. In '79, what is the outgo under present
19 law?

20 Mr. Stern. Under present law, \$7.8 billion more than
21 income.

22 Senator Nelson. In the alternative plan, it would be
23 a plus \$.3 billion?

24 Mr. Stern. That is right. You would improve the
25 financing situation by \$11 billion in '79.

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1 Senator Byrd. Mr. Chairman, the way I visualize it
2 is the Social Security program is more important to more
3 people than any other government program and I think that
4 the Congress has a deep obligation to the potential recipients,
5 to those who are receiving benefits now and those who expect
6 to receive benefits in the future, to safeguard this trust
7 fund and to be certain that we operate it in a way that the
8 money will be there when the people retire.

9 I think that the Social Security system has worked well
10 over the last 40 years. I think that it is a fair approach
11 to Social Security by having the tax paid equally by the
12 employee and by the employer.

13 I would just like to see the fundamental principle
14 change, and for that reason, although I realize it is not
15 a very desirable thing to do politically, I think Senator
16 Curtis has the soundest proposal that we have before us today,
17 and I would expect to support it, because I think the program
18 is so important to so many people that we must be sure that
19 we are handling it in a sound way.

20 The Chairman. Let me express my thoughts.

21 I have tried to stand up for the fiscal responsibility
22 and fiscal integrity and not financing this thing with
23 printing press money, and Senator Nelson and those who agreed
24 with the Administration beyond that, those who tend to agree
25 with the Administration more than I do about this matter,

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are willing to go along with that idea that we ought to raise the money to pay for all of this.

I would not like to get to the point that we are going to pursue that thing by taking the hard and tough way to the extent that in the next election half of us are going to be back home and not here to do anything to help anybody.

And I know the difference between hitting somebody next year or in 1979 with a 2 percent add-on to that tax on employers and employees and saying that the employers alone are going to pay some additional money in 1979.

If we vote to say that between now and 1981 the only real change in terms of raising money is that the employers will pay on substantially all of their payroll, we will have some employers unhappy about it. We are not going to have everybody unhappy.

That is just a lot easier, in my judgment, to move forward to make this program responsible.

Now, when you pass that point, Senator Nelson is proposing a series of tax increases which really go right along the same pattern than Senator Curtis has in his proposal from that point where we just move forward with the tax rates to pay for all of this, leaving this one open point, and that is we are going to have to pass a health insurance bill at some point.

Senator Byrd, it is possible to handle health insurance



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1 in such a way that we really do not have to increase the
2 tax, by just providing some tax credits for people who want
3 to use private insurance rather than the government program.

4 That is something we will have to vote on, of course,
5 and fight it out when we take the health insurance issue.

6 For my part, I would rather go along in Louisiana for
7 the next few years and meet those people, these fellows, you
8 know, in that barroom and talk about these taxes. I would
9 rather put that tax on where it is only the employer paying
10 it between now and 1981 and then in 1981 it goes up on
11 everybody.

12 To me, that is an easier burden to carry, and I think it
13 is still completely responsible to raise money. Just because
14 we put that tax on the employer does not mean that the
15 workers are escaping that. That is going to be passed right
16 on through to them; we all know that.

17 As a matter of fact, most of that being levied on the
18 employee is being past on through. It is not the employees
19 paying that, the employer is paying the whole thing.

20 It is a somewhat higher degree of tax when you send a
21 fellow his slip and it says, so much was taken out of your
22 check. It is just a slight difference of tax, when you really
23 get down to it, between the two.


24 Senator Matsunaga. I am inclined to agree with Senator
25 Byrd, but I am reminded of the fellow who was very proud of

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1 the fact that he always paid his bills on a monthly basis
2 and never bought anything unless he could pay for it. He
3 would forego anything he could not pay for.

4 He carried on for forty years, and all of a sudden his
5 employer went out of business and he was out of employment
6 and he refused to budge from his set standard of not getting
7 anything if he could not pay for it at the time. So he was
8 starving, and so was his wife, but the wife was a little
9 smarter. When his relatives offered to see him through the
10 hard times, while he absolutely refused to accept anything
11 because, in his eyes, it was charity, the wife finally
12 convinced him. And I am hoping, although we have no lady
13 members on this Committee, or in the Senate, that maybe if
14 Mrs. Byrd would review the situation, she might be able to
15 convince our good friend from Virginia that our Social
16 Security fund and trust fund is in such a situation now that
17 maybe we ought to get something from the general fund to tide
18 things over.

19 Eventually, of course, as did the gentleman I was refer-
20 ring to, he got his job and he was even able to pay back his
21 relatives.



22 The unemployment rate in the nation in the past few
23 years is now suffering from that similar type of ailment.
24 After we get back into a full employment, maybe the Social
25 Security trust fund will even be able to pay back into the

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general fund.

I just toss that out.

Senator Nelson. I used to kind of endorse the general fund idea, the old one-third, one-third, until I discovered how irresponsible I was when we got into a crunch. I am trying to avoid making everybody irresponsible and paying for it as we go.

Senator Laxalt. May I ask a question too, Mr. Chairman?

The Chairman. Yes.

Senator Laxalt. Traditionally, since this fund has been created it has been on an equal basis as far as the imposition of the tax is concerned. Am I correct in that?

The Chairman. That is right.

Senator Laxalt. It seems to me, following the Nelson proposal, while on the fiscal side it appears fairly responsible, we are now moving completely away from the tradition of equal payment, imposing it entirely on the employers.

The Chairman. You are only making one move if we follow the Nelson suggestion. That is the Administration proposal, and we are only making one change. We are just saying, on the employer side, that that moves to a tax of the entire payroll.

What the government raises from the employers is passed on. The rest of it --

Senator Laxalt. I understand.



1 The Chairman. Raising the rates on both of them in the
2 future.

3 Senator Laxalt. I think I understand the rationale.
4 The one point that bothers me, and that is the psychology of
5 the approach.

6 We are at a point where those of us who have worked with
7 small businesses, as has Senator Nelson, where I think the
8 business in this country tends to be dispirited, they think
9 they are being put upon by Washington in a number of ways,
10 and it would seem to me that we unnecessarily present ourselves
11 with an unsatisfactory psychological situation without any
12 compelling circumstance.

13 Suddenly to shift gears and impose this burden, however
14 small it is, and whether or not it is passed on by the
15 business community, I think from that standpoint we would be
16 sending a signal out there to the business community that we
17 are insensitive to their problems and we are going to continue
18 putting an unnecessary load upon their financial backs.

19 Is this a legitimate concern that I have?

20 Senator Nelson, you work with these people; you have
21 heard them.

22 Senator Nelson. Sure, it is a legitimate concern. I
23 finally concluded if we are going to put it in balance, any
24 proposal, I have looked at dozens in the past months, all
25 varieties, every one of them is painful, every one has some

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1 problems.

2 In designing this, and certainly, if somebody can come'
3 up with better ideas, in designing it, we were trying to
4 deal with the question: one, of insuring the integrity of
5 the cash benefit program for the next 75 years.

6 I agree with Senator Curtis. I get mail almost every
7 day, sometimes one letter, sometimes five, half a dozen a
8 week saying, "I am reading in the papers that I sent out this
9 money all of these years and when I retire the money ain't
10 going to be there."

11 So we have dealt with that question. Whatever option
12 you take have some problems.

13 If you took Senator Curtis' option of increasing, the
14 two increases he would make, and if we do what I know is
15 going to happen, we increase the earnings exemption -- and I
16 think it needs to be increased to \$6,000 which Senator
17 Bentsen is proposing -- then you are going to add on top
18 Senator Curtis' proposal next year, a .25 additional tax
19 on the employer and employee.

20 In designing the thing, we were dealing with the
21 question, what can we get past the Congress? First, what
22 will raise the money; what can get past the Congress and what
23 can get past the public and what can get past the big lobby
24 groups of the elderly and the labor unions?

25 And we were designing it all the way to try to meet all

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1 of these various diverse constituencies, I think.

2 I can honestly say that this one is less worse than
3 any other one I have looked at, and we can get support for
4 it.

5 Senator Hansen. Mr. Chairman?

6 The Chairman. Senator Hansen?

7 Senator Hansen. Mr. Chairman, I have been very interested
8 in the discussion that has taken place here this morning and
9 I want to compliment Senator Nelson for presenting a plan that
10 avoids the obvious errors and evils of taking monies out of
11 the general fund of the Treasury to make up the deficit that
12 is apparent in the Social Security program. And I think that
13 he has chosen one of the less worse ways of trying to meet
14 the problem.

15 I have to agree with what Senator Byrd has said, and
16 what has been said by Senator Curtis as well, that I think
17 that this program is of greater importance to more people
18 than any other program in the United States. There are ever
19 so many people who have always felt -- and so far have had
20 reason to believe -- that they could count on the assistance
21 that would come from the OASDI or DHI, however you want to
22 identify it, program.

23 I do not see anything wrong at all with following what
24 we have done historically and recognizing the fairness and
25 the even-handedness of increasing the tax on both the employer

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1 and employee, and from time to time, we have raised that
2 limit.

3 When we talk about, as seems to be inherent in the Nelson
4 proposal, making up the deficit simply by raising the cap, and
5 I compliment my friend from Wisconsin again for putting the
6 cap on there, instead of just taking it off, as has been
7 proposed by the Carter Administration, nevertheless, it seems
8 to me that we do not know what the effect may be in the
9 business community.

10 I do know that it was estimated last year that it cost
11 the American people between \$40 and \$45 billion just to pay
12 the interest on the deficit, so obviously I would hope both
13 of us would agree that we do not want to try to make up the
14 difference out of the general fund. But there have been, at
15 the same time, a number of small businessmen in my state who
16 go out of business simply because the burdens of reporting --
17 I have heard Secretary Simon say that the cost of the paper-
18 work that we require people in the United States to do now
19 may total up to another \$40 billion. I do not know; that is
20 just a guess. I do not suppose anybody could say.

21 But we ask for a lot of reports and a lot of detailed
22 information from the business community that makes it tougher
23 to do business.

24 And admittedly, this would be a further inducement for
25 a businessman to say, why try to run a business? So I hope

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1 that we would not take that way, although I think it is
2 far superior to the proposal made by the Carter Administra-
3 tion.

4 But overall, I think that the American people know that
5 there is not any such thing as a free lunch, and I recognize
6 the merit, and I salute my good friend from Louisiana and
7 having been around here a long time -- I am not going to be
8 around here all that long, but I have to think that we should
9 first ask ourselves, is the plan inherently fair and honest?
10 Does it deal forthrightly with the problem?

11 And I personally, and I am sure that my friend from
12 Louisiana does not have any better success and has not tried
13 to beguile or fool anybody, but I think to face the problem
14 head on, which seems to me to be proposed by Senator Curtis,
15 is the way we ought to solve it.

16 The Chairman. Why do we not vote on the Curtis proposal?
17 Senator Danforth?

18 Senator Danforth. I want to say something about raising
19 the cap, if that is the trend. I have a sense of having done
20 this before, but on the theory of telling them what you are
21 going to tell them and then telling them what you told them,
22 I will go through it again.

23 The problem with raising the cap on the employers base
24 is that it does not have an even effect on everybody, and it
25 has an extremely hard effect on some employers, especially

1 those who have a relatively high proportion of senior
2 employees, or skilled employees, or high-salaried employees.

3 For example, my staff has done a survey of possible
4 effects, and here are some of the results that they came up
5 with. For medical offices, it would be an average of a 60
6 percent increase in their Social Security tax bill. For
7 wholesalers, an average of a 24 percent increase.

8 Some specific examples in Virginia: we found a communica-
9 tions firm with 55 employees which will have an 82 percent
10 increase over what its Social Security liability would have
11 been without removing the ceiling.

12 A nationwide actuarial consulting firm with 500 employees
13 now pays \$380,000; with removal of the ceiling, it would pay
14 an additional \$487,000, for an increase of 128 percent in
15 its Social Security liability.

16 Two manufacturing companies in Louisiana, both with over
17 100 employees, would have a 98.7 percent increase -- one would
18 have a 98.7 percent increase, the other a 42 percent increase
19 in Social Security tax liability.

20 Hawaii; an agricultural firm with over 100 employees
21 will have an increase of 95 percent in its liability.

22 In New York, a manufacturer with over 100 employees will
23 have a 72.5 percent increase in its liability.

24 You might have guessed that my selection of states was
25 somewhat selective, in view of the make-up of the Committee.

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State and local governments, it would have a tremendous effect here, and this is the one group that can opt out. They can get out of Social Security; constitutionally, we cannot keep them in if they want to get out.

The state of Missouri, the increase would be 9 percent, a \$2.4 million increase in Social Security liability.

Harris County, Texas. An increase of \$244,000 in Social Security liability.

Milwaukee, Wisconsin. An increase of \$724,427, or 17.94 percent.

New York City, over five years -- the increase in New York City over a five-year period of time would be \$58.5 million over what has been paid.

For New York state and local governments there would be an increase of \$655 million over current costs.

Nonprofit organizations would also be hit. St. Louis University would have its liability increased by \$504,000. Washington University in St. Louis, about a \$1 million increase in their Social Security liability.

So the point of putting this out is, if you remove the lid on the employer tax base, you are not going to have a predictable or evenly distributed increase in the tax liability. It is going to be very uneven.

I certainly agree that the name of the game is increasing revenue. One way or the other, we are going to have to

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1 increase revenue, but I just do not believe that this is the
2 way to do it.

3 I do have a couple of ideas which I do think are more
4 equitable, one being the universal coverage and the other
5 being the surcharge on the income tax.

6 The Chairman. Well, why do we not vote on the Curtis
7 amendment?

8 Senator Matsunaga. Mr. Chairman, may I make one comment
9 here?

10 With reference to unemployment, as I understand it,
11 for every .1 percent of increase in taxes, we will put out
12 of jobs 150,000, and the Curtis proposal would be, as I
13 see it, four times as severe as the staff proposal, and the
14 staff proposal would put 150,000 people out of work, which
15 means that the Curtis proposal, by its increased tax proposed,
16 would mean that 600,000 jobs would be lost. Is that correct?

17 Mr. Stern. I do not know anything about that, sir.

18 Senator Hansen. Who suggested those figures?

19 Senator Matsunaga. The Congressional Budget Committee.

20 Senator Hansen. They have a "very poor track record.

21 Senator Matsunaga. I circulated it.

22 Senator Hansen. If they have not been any better on
23 this problem than on energy, I would not take any credence --

24 Senator Matsunaga. They are very conservative, really.

25 Senator Hansen. They were sure conservative on possible

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1 supplies of energy.

2 Senator Matsunaga. I put it in the form of a question.

3 The Chairman. If the Curtis amendment is agreed to, I am
4 going to suggest at some point that we move that date of
5 the year and make it 1979. We do not need to decide that
6 right now.

7 Right now, we have to decide which proposal.

8 Senator Matsunaga. The point I was trying to make was
9 this. The reason that the Social Security trust fund is in
10 so much trouble is that we have had such high unemployment
11 rates, that we have had fewer people putting their money
12 into the fund, and more people growing older naturally, drawing
13 more out of the fund.

14 If we were to throw an additional 600,000 who are now
15 employed out of work, it will mean that many more are not
16 paying anything into the fund.

17 The Chairman. Senator, if the Curtis proposal is
18 agreed to, I am going to suggest that we move the date forward
19 by one year. I would like to see which approach we will
20 have.

21 Senator Curtis. Mr. Chairman, I want to state that I
22 would be willing to accept moving my schedule up a year. I
23 do want to say that -- I will not delay it, but I do not
24 place any validity in this argument advanced by the Budget
25 Committee staff.

1 If we do not raise the money, we would increase the
2 deficit. If increasing the deficit would provide jobs, we
3 would not have any unemployment in this country. It is just
4 that simple.

5 The alternatives would still take the money out of the
6 economy, but I want it to be known that I think this discus-
7 sion has been helpful. If my proposal carries, I want to
8 say that I am perfectly willing to, instead of imposing it in
9 '78 and '79, to make it '79 and '80.

10 Senator Nelson. Mr. Chairman, may I just make one
11 brief point -- well, a couple of points, actually, as to
12 Senator Danforth's statistics. What we do not have to match
13 against it is how much the state and local governments would
14 have to pay in increased appropriations if you increase the
15 tax base on both sides and they had to pay it on the employees.

16 As a matter of fact, on page 100, if you took the lid
17 off state and local governments, small firms, state and local
18 governments would be paying, of the small state and local
19 governments, an increase of 2.5 percent, if you just took the
20 lid off entirely, as the Administration proposed.

21 If you imposed a tax like Senator Curtis has, the cost
22 to those governments would be higher than taking the lid off,
23 because they are the ones that have a large number of employees
24 on whom they are already paying the tax. It is not that clear
25 of a picture.

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1 Let me say this. I understand Senator Curtis' argument,
2 but I would hope that we would look at this from the long-term
3 viewpoint. We all agree that we want to assure everybody of
4 security in this fund and the only plan laying before us is
5 the alternative plan that I have brought in here that carries
6 us all the way to the year 2050, and in balance without
7 reducing the replacement rate.

8 I can think of nothing more disastrous to this program
9 than to tell people that we are in balance, all right all the
10 year 2050, but the people who retire today are going to get
11 a 44 percent replacement rate in their retirement income.
12 But in the year 2020, or in 1990, the replacement rate is
13 going to go down, down, down until you are down to a 30
14 percent replacement rate, or a 28 percent replacement rate
15 at the end of the line.

16 So we are saying, you pay these higher taxes which will
17 keep going on up, but when you retire, instead of getting
18 44 percent of your final replacement rate, on the average,
19 you are going to get 31. That is the reason you can deal
20 with less taxes, if you let the replacement rate go down.

21 I think that that is totally unacceptable politically to
22 the whole country. All the participants, as soon as they see
23 that they are going to pay on everybody who is retired now,
24 continues in the retirement for the next ten or fifteen or
25 twenty years, however long they live on 44 percent, when those

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who are paying for that 44 percent retire, they are going to -- each year, the replacement is going to be lower, depending on when they are going to retire.

I understand the argument for that. It does save the fund, it does not cost as much in taxes, but I can think of no greater insecurity to plant into the minds of every single contributor than the fact that each year, his replacement rate is going to be lower, the longer he works and the more he pays into the fund.

So I think we ought to be looking at the whole 75-year picture. Therefore, I would oppose the proposal by Senator Curtis, which is also going to have to have a .25 tax on top of it, if Senator Bentsen's proposal of the \$6,000 earnings limitation is adopted.

The Chairman. We can further modify the proposal, if we agree to it.

Let us vote and see if the Committee wants to take the Curtis approach.

Call the roll.

Mr. Stern. Mr. Talmadge?

Senator Talmadge. Aye.

Mr. Stern. Mr. Ribicoff?

Senator Nelson. No, by proxy.

Mr. Stern. Mr. Byrd?

Senator Byrd. Aye.



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Mr. Stern. Mr. Nelson?

Senator Nelson. No.

Mr. Stern. Mr. Gravel?

(No response)

Mr. Stern. Mr. Bentsen?

Senator Bentsen. No.

Mr. Stern. Mr. Hathaway?

Senator Nelson. No, by proxy.

Mr. Stern. Mr. Haskell?

Senator Nelson. No, by proxy.

Mr. Stern. Mr. Matsunaga?

Senator Matsunaga. No.

Mr. Stern. Mr. Moynihan?

Senator Nelson. No, by proxy.

Mr. Stern. Mr. Curtis?

Senator Curtis. Aye.

Mr. Stern. Mr. Hansen?

Senator Hansen. Aye.

Mr. Stern. Mr. Dole?

Senator Hansen. Aye, by proxy.

Mr. Stern. Mr. Packwood?

(No response)

Mr. Stern. Mr. Roth?

(No response)

Mr. Stern. Mr. Laxalt?



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1 Senator Laxalt. Aye.

2 Mr. Stern. Mr. Danforth?

3 Senator Danforth. No.

4 Mr. Stern. Mr. Chairman?

5 The Chairman. No.

6 (Pause)

7 The vote is six yeas and nine nays. Those not voting,
8 by proxy or otherwise at any point -- let me see, Mr. Gravel,
9 Mr. Packwood and Mr. Roth.

10 Let us go on, then. This is something that we can discuss
11 further and I would assume that however this particular issue
12 is decided, there will be a vote on the Floor again anyway,
13 so let us see if we can look at some of the other decisions
14 that need to be made.

15 As of now, the motion fails by 6 to 9. If all the
16 absentees voted for the Curtis proposal, it would still fail
17 on a tie vote.

18 Shall we vote on the Nelson proposal?

19 Senator Nelson. Yes.

20 The Chairman. Basically, if we take that approach, we can
21 always change it at some point.

22 Senator Talmadge. How much are you transferring from
23 the Health Insurance fund to the Social Security fund?

24 Mr. Humphreys. \$13 billion over five years.

25 Senator Talmadge. Can we not modify that, because the

1 Health Insurance program is already broke.

2 Senator Nelson. Our statistics are, if we follow the
3 transfer that we make, when you have cost containment the
4 fund will be broke, to use your term, in '86. But if we do
5 not have cost containment, it will be broke in '83.

6 Senator Talmadge. Mr. Constantine, are you here? What
7 are your statistics on the health insurance?

8 Mr. Constantine. Senator, actuarially, it is in deficit,
9 but not in terms of dollars. In other words, the balance of
10 the fund carries it forward. You are right, there is an
11 actuarial deficit now of 1.16 percent taxable payroll at this
12 time, but, in dollars, it will not run out under present law,
13 until, I believe, 1986 -- under present law.

14 Senator Danforth. Mr. Chairman, the problem with all of
15 this is that nobody wants to do anything. Every proposal is
16 unpopular, because every proposal requires raising revenues,
17 and that is something that nobody wants to do.

18 I think, really, the argument is not whether we have to
19 raise revenues, but what is the most equitable way of going
20 about doing that. The reason that I opposed Senator Curtis'
21 proposal, first of all, I think that there should be price
22 indexing rather than wage indexing, but, with respect to
23 rate increase, it seems to me that that puts the burden on the
24 low wage wage-earner and recovers most of the revenues needed
25 from them.

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1 On the other hand, if you increase the base that would
2 put all of the burden on the people who are over the existing
3 base, so that neither of these proposals really spreads the
4 burden throughout the economy. Most of these proposals, both
5 Senator Curtis' proposal and increasing the base on the
6 employee, extracts taxes from that particular segment of the
7 economy.

8 It seems to me that if we are going to do that, we should
9 do it on the same basis as the income taxation, namely, on
10 the ability of the wage-earner to pay, and yet we want to
11 maintain a separate, definable tax, and that is exactly the
12 reason that I think that the fairest way to go about it is to
13 have a separate, definable surcharge in the income tax.

14 Senator Curtis. I might point out to you if we raise
15 the employer's tax to \$100,000 that there is no reason to
16 raise the base of the employees to \$4800. It does not
17 contribute to the long-range financing.

18 Senator Nelson. Pardon me?

19 Senator Curtis. If you raise the employer's tax to
20 \$100,000, there is no need to raise the employee's base to
21 \$4800.

22 Senator Nelson. I did not do the statistics. If our
23 statistics are correct, the financing that we have done in
24 this proposal covers all of the problems that we have got,
25 except hospital insurance which becomes a problem under our

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proposal either in '83 or as late as '86.

If you wanted to pay that much more tax to make it, we could. I think it is a heavy tax.

After considerable discussions with the Chairman and others, it seemed to me that to deal with that question five years or either years, whatever, from now, it may be resolved by health insurance, and if it is not, then we face the problem of increasing the taxes or of going to the general fund.

Every proposal before us, HI exhausts no matter what you do. One of them is one years later, two years later, three years later. So no matter what you do, unless you raise more taxes than anybody now proposes, HI is in trouble.

Senator Curtis. Do I understand your argument is that Hi is going broke anyway, we might as well grab some of the money and speed it up?

Senator Nelson. I was very concerned about the House movement to the general fund, as all of us are. They even have a provision in there now, unless they change it, to borrow from the general fund, and that is the fight we will have in conference, if they stick to it.

With all of its problems, the principle that seems the most important, to be sure we fund and protect the integrity of the cash benefit program, that we levy the taxes to do it, that we stay away from the general fund, and if at

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1 some stage we are stuck and do not have a health insurance
2 plan five or eight years from now and the fund has to have
3 money, that it is better at least either to increase the
4 tax burden or to put money from the general funds into this
5 kind of a program in the same way that we are doing it right
6 now, on a 70-30 basis in the physician's care program..

7 Senator Curtis. That is a little different. When Medi-
8 care was adopted, it was presented as hospital insurance
9 only. In the Ways and Means Committee, it was discussed, why
10 not have something for doctors. So they put as a separate
11 part, which never has gone through the taxing and payroll
12 provision of Social Security, they provided -- I think they
13 start out with beneficiaries paying \$3.00 or \$3.50 a month.

14 Senator Nelson. I think it was 50-50.

15 Senator Curtis. That really has never been a part of
16 the so-called social insurance program.

17 Senator Nelson. I understand that was trying to keep
18 absolutely pure the cash benefit program, and if you ever are
19 stuck and you feel so strongly you do not want to put
20 any general funds into the hospital fund, then we raise the
21 tax.



22 Senator Hansen. Let me say, Mr. Chairman, that I intend
23 to vote against the Nelson proposal, but I certainly do
24 comment him again for having presented a far better alterna-
25 tive than has been proposed by the Administration or is

1 contained in the House bill.

2 If we get other alternatives, you will have my support.
3 I would hope we would do it a little bit differently, but I
4 commend you for a very sound step forward from where we started
5 out.

6 Senator Nelson. Let me say that I appreciate that
7 mine, you are saying, is less worse than the Administration's.

8 Senator Hansen. That is what they said when they voted
9 for me; I was not any good, but I was less worse than my
10 opponent.

11 Senator Nelson. I have realized the problems since I
12 have been looking at this daily for weeks. Unfortunately,
13 the last chart we got today, and to every Committee member,
14 so it is asking a lot to make decisions today on something
15 you looked at today.

16 With all the ability there is on the staff, there may
17 be revisions to this that would be very persuasive to me, and
18 we may have to make that decision in one or two sessions next
19 week.

20 At least we have got the program out there. We have
21 looked at all kinds of things, and, as I said, everything that
22 I looked at to substitute for what we are doing here did not
23 look as good as this, but that does not mean that we had all
24 of the best ideas in the world.

25 Senator Talmadge. Would the Senator yield?

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1 Senator Nelson. Yes.

2 Senator Talmadge. Why can we not raise the rates so we
3 do not have to tap the hospital fund for \$13 billion, which is
4 actuarially bankrupt?

5 Senator Nelson. We ran into problems -- maybe we can.
6 I am not saying we cannot. We ran into problems with, for
7 example, Mr. Schultz worrying about how much you pull out
8 of the economy at one stage and how fast, how much in any
9 particular year.

10 Senator Talmadge. If you subsidize it from the deficit,
11 you are still going to take it --

12 Senator Nelson. We would not have to put anything in
13 out of current monies until '83. We are worrying about '78,
14 '79. That is just the explanation.

15 Senator Talmadge. You are going to take \$13 billion out
16 of the fund that is going to be exhausted in 1983, even under
17 present law.

18 Senator Nelson. Under that, what you would have to do,
19 we show what exactly would happen if you did not have a
20 health insurance plan and you did not increase the taxes and
21 each year there would be \$3 billion and \$4 billion and \$5
22 billion going out of general funds into the health insurance
23 program.

24 Why do we not do this? We are operating at a little bit
25 of a handicap. Let's chart it out.

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1 If you took what Senator Bentsen is offering, you took
2 the schedule increases, and what I have proposed and then
3 the amount to put that HI back into balance, and then look
4 at how much we are increasing each year.

5 Senator Talmadge. I think we ought to fund them both.

6 Senator Nelson. If we can do it.

7 Senator Talmadge. I am inclined to vote for the Bentsen
8 proposal, provided we fund it. I think, at the same time,
9 we ought not to borrow the \$13 billion from a fund that is going
10 to be bankrupt in '83 under the guise of we are acting with
11 fiscal responsibility. We should fund them both.

12 The Chairman. Would you consider amending yours to
13 provide a higher tax increase in 1981? We could do that.
14 Maybe you would not have to borrow from the HI fund.

15 Senator Nelson. We fiddled around with it a little
16 bit. In 1983 -- that is the first year that under our projec-
17 tions you would have to have money for the HI fund -- it
18 would be \$2.9 billion, and then in '84 it would be \$4.9
19 billion, and \$7.9 billion. That gets you up to 1986.

20 I think we ought to take it and chart that percentage
21 increase out. I am for funding it if we can, but if it gets
22 to be too big of a bite, and you have economy questions --
23 at least Charlie Schultz is concerned about that, and the
24 Administration -- then we have another problem.

25 We will do that, and have that ready by Monday.



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Mr. Stern. As a rough guess, if you want to increase the tax in 1981, if you did it .1 percent on employers and employees each from then on out, that probably would be the equivalent of the transfer that Senator Nelson is proposing.

Senator Hansen. Do you think that would be adequate?

Mr. Stern. In the long run, it amounts to a tenth of a percent each on employers.

Senator Talmadge. Are you talking about the health fund loan, now?

Mr. Stern. If you raise the taxes by that amount, you could eliminate the feature of borrowing from the health fund.

Senator Talmadge. How much would you have to raise to take care of the Bentsen amendment?

Senator Bentsen. If you have to raise it to take care of the Bentsen amendment, it is .085 on the employer and .085 on the employee. As I understood it, that is the estimate from Social Security.

Senator Talmadge. Why do we not raise it enough to take care of both of them?

Senator Bentsen. May I speak on mine alone, if I might? I have great admiration for the Senator --

Senator Nelson. Not that much.

Senator Bentsen. I would like for mine to stand alone.

Senator Curtis. Your point about .1 percent tax in '81, that would be in addition to what he is going to levy on

1 employers?

2 Mr. Stern. Yes.

3 The question the Chairman asked, if you do raise the
4 tax rate in 1981, instead of the Health Insurance transfer,
5 how much would it have to be, I believe it is quite close
6 to .1 percent each on employer and employee.

7 Senator Nelson. I do not know how long you intend to
8 go. We have some charts on that.

9 The Chairman. Let's get a thing or two settled. One,
10 Senator Gravel said that he would vote no on the proposal
11 compared to the Nelson proposal, but I want to make it clear --
12 and I think several of us who voted no on the Curtis proposal,
13 I know I feel this way, feel that we have got to act now and
14 I will support whichever approach the Committee is willing
15 to report out of here.

16 However, it goes, I think that everyone who feels rather
17 strongly about the two proposals should reserve the right to
18 vote on whatever one he thinks best meets the problem.

19 To me, the important thing is that in my judgment we
20 should measure up to our responsibility and say we are going
21 to vote out a bill to propose taxes to make this thing solvent,
22 and I hope that we can proceed on that basis.

23 I would hope, Senator, that you would be able to modify
24 your proposal to meet Senator Talmadge's suggestion so you
25 would not have to borrow from the HI fund. If you could, I

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1 think that would make a better proposal. It does not have
2 to be before 1981 or 1985, somewhere along in there, that
3 that tax would go up, does it?

4 Senator Talmadge. 1981.

5 Mr. Stern. 1981.

6 Senator Talmadge. Under present law, it will be
7 bankrupt in '83.

8 Mr. Stern. Under present law, the Health Insurance
9 fund runs out of funds in 1987.

10 Senator Curtis. It is running at a deficit now?

11 Mr. Stern. There has not been an actuarial imbalance
12 in the long run, but in the short run, it takes in more
13 money that it pays out.

14 Senator Hansen. Takes more money?

15 Mr. Stern. For about the next five or six years, it is
16 taking in more money than it is paying out. After that,
17 the situation is rather dramatically reversed.

18 Senator Nelson. What is your program for proceeding?

19 The Chairman. I would like to vote on your suggestion,
20 so at least for now we have a decision, and then move on
21 forward to make some more decisions, like on the Bentsen
22 amendment.

23 I would like to vote on this one.

24 Senator Nelson. Which one are you talking about?

25 The Chairman. I am talking about your proposal. You will

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get at least one more vote for it if you modify it to take care of the Health Insurance, I would suspect.

Senator Nelson. Do you want to put it in terms that we will design and get some charts that will protect it against the deficit, but not try to say right here that it would be X percent?

Senator Talmadge. That is agreeable to me. The only thing I want to make certain is that we do not borrow it from one fund that is going bankrupt to protect another fund that is going bankrupt.

Senator Nelson. I figure you would have only one bankrupt fund instead of two. I assume that everything we got here is subject to reconsideration at some stage. If you are talking about the principle that Senator Talmadge is advocating, I will vote for that, but I want to see it charted. I want to see the whole thing together at some stage.

I am prepared to vote for that principle. It may not be the most practical way to approach it. I agree with that principle. I do not know if we should put that much on.

The Chairman. Suppose we vote on your proposal on that basis, that we will increase the tax so you will not have to borrow from the HI fund, with the reservation that when we look at Health Insurance, if we can find a better way to finance Health Insurance than we are anticipating at this



1 moment, at that point, you can consider transferring some
2 of these funds.

3 Senator Nelson. I will vote for the principle, and let
4 us look at the charts.

5 Senator Danforth. Could I inquire for a question?

6 At the bottom where it says longrange balance minus --

7 Senator Nelson. What chart are you looking at?

8 Senator Talmadge. That has been changed.

9 Senator Danforth. What would the figure be now?

10 Senator Nelson. Take page 5 of this one, September
11 15th, then you will see the balance in the fund under our
12 proposals.

13 The Chairman. What would your tax increase have to be
14 when you get to 1981?

15 Senator Nelson. It is .35 in our proposal.

16 Mr. Stern. I believe that is correct. That may be
17 slightly off, but in general it is going to be about a tenth
18 of a percent each on employer and employee to do what you are
19 suggesting here, not borrowing from the HI fund.

20 The Chairman. Maybe it might be a little easier if
21 you stated it .35 and add in another .1 in 1983. How would
22 that do it? Would that be about the same thing?

23 Mr. Stern. Senator Nelson's proposal really did start
24 getting some money right up front, and you are postponing it
25 until 1981. I think you would want to not delay too long.

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1 Senator Hansen. Mr. Chairman, I think we would have
2 a clear idea of what we were voting on if we would adopt
3 your suggestion. Let's be specific, if we can, so we will
4 know at least what we are talking about.

5 Senator Nelson. If we do not transfer anything, the
6 fund is out of money in '88 anyway, is it not? If we do not
7 skim money --


8 Mr. Stern. The Hospital Insurance fund? Yes, sir.

9 Senator Nelson. So this proposal would not extend --
10 it extends the funds' integrity until '88, but not beyond
11 it?

12 Senator Talmadge. You are taking it out of a fund that
13 will be bankrupt in 1988 and you are taking \$13 billion
14 from it? You agreed in principle what I am suggesting, to
15 raise the money to make that fund whole. I have no objection
16 to that.

17 Senator Nelson. That is my query.

18 Senator Talmadge. We are going to have to do that to
19 Bentsen if his amendment is agreed to. If we do the same
20 thing for the HI fund that we are going to have to do if
21 Bentsen's amendment is agreed to --



22 Senator Bentsen. The point that he is making, though,
23 is that he is willing to come up with something that will
24 stop the transfer of the \$13 billion, but that, by itself,
25 does not take care of that from now on. He does not want to

1 accept that part about it.

2 Senator Nelson. No skin off. Whatever happens to the
3 fund will happen to it, and it is going to run out at some
4 stage.

5 Senator Bentsen. We will have to resolve that later.

6 Mr. Stern. A crude guess is .1, but it may be .12 or
7 something like that. We will have a definite figure for
8 you.

9 Senator Nelson. I am prepared to endorse the principle!

10 Senator Curtis. Does this proposal still include your
11 lifting of the cap on the employer?

12 Senator Nelson. We are not voting on that one yet, are
13 we? Are you including that in this vote?

14 The Chairman. That is what I would do.

15 Senator Nelson. All right.

16 The Chairman. Let us call the roll, then.

17 Mr. Stern. The approach that Senator Nelson made is
18 with the modification that the tax rate will be increased in
19 1981 so as to eliminate the feature of borrowing from the
20 Hospital Insurance fund. We think that is about a tenth of
21 a percent each; we will have an exact figure Monday.

22 Senator Nelson. Were you proposing that Senator
23 Talmadge's proposal be voted at the same time?

24 The Chairman. The whole thing, yes.

25 Senator Nelson. I wish you would separate it, because



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I do not know that I have proxies involving a tax increase. I can vote them on the ceiling.

The Chairman. I propose an amendment just to say that we will add a .1 so we will -- the .1 you think is what it would take?

Mr. Stern. Yes, sir.

The Chairman. Add .1 to amend the Nelson proposal, add .1 in 1984 so that we do not have to dip into the Health Insurance fund.

Senator Curtis. To raise the rates on employer and employee.

The Chairman. Employer and employee in 1981 by an additional .1. That is an amendment to the Nelson proposal, so we will not have to dip into the Health Insurance fund.

Senator Nelson. You will vote on that separately from raising the ceiling on employers?

The Chairman. That is right. This is just a proposed amendment to the Nelson amendment.

Senator Nelson. No, Senator. I would wish you would vote on the question of raising the limit on the employer, then vote on Senator Talmadge's, because I cannot cast a vote if there is a tax increase in it, because I have not asked Senators Moynihan, Hathaway, Haskell, Gravel.

The Chairman. Let us vote..

Senator Nelson. Let us vote -- no, on the ceiling first.

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Senator Bentsen. A vote on your bill first?

Senator Nelson. To be subject to amendment.

Senator Bentsen. You have your proxies for that?

The Chairman. All right.

Senator Danforth. What are we voting on?

Senator Nelson. Raising the ceiling to \$100,000 on the tax on the employer.

Senator Danforth. The employer-based increase?

Senator Nelson. Yes.

The Chairman. Let's just vote on the simple thing of raising the ceiling on the employer contribution. Let's vote on that part of it.

Call the roll.

Mr. Stern. Mr. Talmadge?

Senator Talmadge. Aye.

Mr. Stern. Mr. Ribicoff?

Senator Nelson. Aye.

Mr. Stern. Mr. Byrd?

(No response)

Mr. Stern. Mr. Nelson?

Senator Nelson. Aye.

Mr. Stern. Mr. Gravel?

(No response)

Mr. Stern. Mr. Bentsen?

Senator Bentsen. Aye.



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The Chairman. Gravel votes aye.

Mr. Stern. Mr. Haskell?

Senator Nelson. Aye, by proxy.

Mr. Stern. Mr. Hathaway?

Senator Nelson. Aye, by proxy.

Mr. Stern. Mr. Matsunaga?

Senator Matsunaga. Aye.

Mr. Stern. Mr. Moynihan?

Senator Nelson. Aye, by proxy.

Mr. Stern. Mr. Curtis?

Senator Curtis. No.

Mr. Stern. Mr. Hansen?

Senator Hansen. No.

Mr. Stern. Mr. Dole?

(No response)

Mr. Stern. Mr. Packwood?

(No response)

Mr. Stern. Mr. Roth?

(No response)

Mr. Stern. Mr. Laxalt?

Senator Laxalt. No.

Mr. Stern. Mr. Danforth?

Senator Danforth. No.

Mr. Stern. Mr. Chairman?

The Chairman. Aye.



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Senator Curtis. Mr. Chairman, I ask unanimous consent that all absentees be recorded on this vote.

The Chairman. Without objection, agreed.

Ten yeas and four nays, the ayes have it.

I propose that we vote to amend the Nelson amendment for the additional .1 percent, and that we not shift the funds from Health Insurance.

Senator Nelson. You are offering the Talmadge amendment now?

The Chairman. Yes.

Call the roll.

Mr. Stern. Mr. Talmadge?

Senator Talmadge. Aye.

Mr. Stern. Mr. Ribicoff?

(No response)

Mr. Stern. Mr. Byrd?

(No response)

Mr. Stern. Mr. Nelson?

Senator Nelson. Aye.

Mr. Stern. Mr. Gravel?

(No response)

Mr. Stern. Mr. Bentsen?

Senator Bentsen. Aye.

Mr. Stern. Mr. Hathaway?

(No response)

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Mr. Stern. Mr. Haskell?

(No response)

Mr. Stern. Mr. Matsunaga?

Senator Matsunaga. Aye.

Mr. Stern. Mr. Moynihan?

(No response)

Mr. Stern. Mr. Curtis?

Senator Curtis. Aye.

Mr. Stern. Mr. Hansen?

Senator Hansen. Aye.

Mr. Stern. Mr. Dole?

(No response)

Mr. Stern. Mr. Packwood?

(No response)

Mr. Stern. Mr. Roth?

(No response)

Mr. Stern. Mr. Laxalt?

Senator Laxalt. Aye.

Mr. Stern. Mr. Danforth?

Senator Danforth. No.

Mr. Stern. Mr. Chairman?

The Chairman. Aye.

That is eight yeas and one nay. I will assume that there will be votes from the absentees.

Senator Bentsen?

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Senator Bentsen. Mr. Chairman, I propose an amendment to increase the limitation on earned income as now applied to those persons receiving Social Security benefits to between the ages of 65 and 72, and that that limitation be raised, beginning in 1978, to \$4500, where it would normally \$2300; and in '79, to be raised to \$6,000.

I think that that is a recognition of what is happening in the way of inflation, and the changing lifestyle of people who want to continue to work and some of those people who are on Social Security who are finding themselves with very minimal subsistence. And I believe it is one we should have, and I agree with those members of the Committee to say that we ought to pay for it as we go, and the actuarial computations that I have received, that I understand were provided by Social Security to the Subcommittee and the House, to say that it would cost the employer .1085 and the employee .085, for a total of .017.

That cost really begins to come about towards the end of 1978, and we would have no problem with this forthcoming budget in that regard.

This particular amendment has been passed by the Subcommittee, Social Security Subcommittee and the Ways and Means Subcommittee, by a vote of 6 to 2. My understanding is that they made it effective in '77, but I am talking about it being effective January 1, 1978.



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Mr. Stern. Would the tax also go on in January?

Senator Bentsen. Yes.

The Chairman. January 1, 1978?

Senator Bentsen. Yes.

Mr. Stern. Do you want to consider making that January 1, 1979?

Senator Bentsen. If we have a budget problem.

Senator Talmadge. What is the rule on this? I thought that you had to keep the Budget Resolution whole, and if you raised the tax to finance the expenditure, you can do that, can we not?

Who is an authority around here on the Budget Committee?

Mr. Stern. You can, in fact, raise the tax whenever you want and just make the Budget authority applicable only beginning October, 1978.

Senator Bentsen. October '78?

Mr. Stern. That is one way to do it.

The other thing as far as effective date of the increase in the retirement tax, you could also make that effective beginning October, 1978, but effective for the whole year 1978. In other words, the increase to \$4500 would not affect any payments until 1978, but you could get a retro-active payment; had you missed a couple of benefits for a couple of months, you could get them later if you wanted to do that.



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1 Senator Bentsen. What we are actually talking about is
2 money that is not withheld, that would be paid out to these
3 people who would be making \$6,000. If it were effective
4 January '78, they would be showing their increase after
5 October?

6 Mr. Stern. If you want not to result in any outlays
7 under this amendment in fiscal year 1978, which has an
8 advantage from a budgetary standpoint.

9 Senator Bentsen. That is my objective.

10 The Chairman. How would you do it?

11 Mr. Stern. I would simply say that although the
12 provisions would be effective with respect to all of 1978,
13 no additional payments to this provision could be made
14 before October 1, 1978. In many, many cases this will not
15 make any difference.

16 The Social Security Administration is making payments
17 through October; they will just keep on making them through
18 December. In many cases, people will wind up getting a
19 couple of months back.

20 Senator Bentsen. I think that is what we ought to do,
21 to avoid budgetary problems.

22 The Chairman. If that is going to be a tax increase --
23 and it is a considerable tax increase -- why can we not make
24 it all go at the same time? I do not like to keep nibbling.
25 I do not like the idea that over the Christmas season, when

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1 they have nothing else to write about in the newspapers,
2 all they have to write about is the Social Security, how it
3 is going to go up in January.

4 I would prefer us to have to sustain that conversation
5 one time rather than three times. It seems to me that the
6 way to do that is say, all right, this all happens in January,
7 1979.

8 Is there any reason why we cannot do it that way?

9 Mr. Stern. On the benefits side, you would keep the
10 benefits the way you have been talking about up until now,
11 namely effective October '78, but the tax increase would
12 start in January, '79?

13 The Chairman. That is what I am suggesting.

14 Mr. Stern. You can do that.

15 Senator Bentsen. That is fine.

16 The Chairman. That is what I am suggesting, that the
17 tax increase should all hit at one time.

18 If I have to go around explaining it, I would rather
19 explain it one time rather than explain it three times.

20 Senator Bentsen. Mr. Chairman, I am in full accord
21 with that.

22 The Chairman. Without objection, the amendment will
23 be considered in that fashion, and call the roll on that.

24 Mr. Stern. Mr. Talmadge?

25 Senator Talmadge. Aye.

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Mr. Stern. Mr. Ribicoff?

Senator Nelson. Aye, by proxy.

Mr. Stern. Mr. Byrd?

(No response)

Mr. Stern. Mr. Nelson?

Senator Nelson. Aye.

Mr. Stern. Mr. Gravel?

(No response)

Mr. Stern. Mr. Bentsen?

Senator Bentsen. Aye.

Mr. Stern. Mr. Hathaway.

Senator Nelson. Aye, by proxy.

Mr. Stern. Mr. Haskell?

(No response)

Mr. Stern. Mr. Matsunaga?

Senator Matsunaga. Aye.

Mr. Stern. Mr. Moynihan?

(No response)

Mr. Stern. Mr. Curtis?

Senator Curtis. Aye.

Mr. Stern. Mr. Hansen?

Senator Hansen. Aye.

Mr. Stern. Mr. Dole?

(No response)

Mr. Stern. Mr. Packwood?



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(No response)

Mr. Stern. Mr. Roth?

(No response)

Mr. Stern. Mr. Laxalt?

(No response)

Mr. Stern. Mr. Danforth?

Senator Danforth. Aye.

Mr. Stern. Mr. Chairman?

The Chairman. Aye.

Ten ayes, no nays.

Senator Curtis. Mr. Chairman, I have a proposal -- in fact, I think it is almost in the nature of a corrective amendment --

Senator Nelson. May I interrupt? Senator Hathaway would like to be recorded aye.

The Chairman. Eleven ayes.

Senator Curtis. The increased cost is negligible, so it will not call for any financing.

It surprised me, if someone delays their retirement beyond 65, they get more money for each year it is delayed. Of course, they do not draw anything when they are 65 and 66 and so on, neither does their wife. The wife's benefits are not paid.

I have a situation where a man delayed until age 69, and a couple of months afterwards, he died. He started to



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1 draw his higher benefits, but his widow's benefits was
2 figured not on the basis of when he retired in '69, but on
3 the basis of what he would have gotten if he had retired at
4 65. Of course, she missed out on four years.

5 This would mean the widow's benefits would be based upon
6 what the husband actually received, and I think that it is
7 very equitable, and I am told that its cost would be so
8 negligible that it would not make any difference.

9 Is that your understanding, Mike?

10 Mr. Stern. We are trying to get an answer to it. What
11 we are doing -- could I raise one point, Mr. Chairman? In
12 the Railroad Retirement Fund, there are two tiers that up to
13 now have tracked what you did in Social Security. One tier
14 is the tax that is paid both by the employees and employers,
15 the same as Social Security, and that would change however,
16 you change things for Social Security.

17 The second tier basically represents a Federally legis-
18 lated private pension plan that is arrived at by collective
19 bargaining between the railroad, labor and management, and
20 so we would certainly suggest that we would make no change
21 in the tax rate, or taxable wages under that part of the
22 plan that is arrived at by collective bargaining.

23 Senator Curtis. I understand the Social Security
24 Administration is here. Will they advise us on the cost?

25 Is my statement correct that this would be negligible?

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1 VOICE: I cannot agree that that would be true. It would
2 have a cost. We do not have a figure; we could work to get
3 you one as quickly as possible.

4 Senator Curtis. It would be negligible?

5 VOICE: I could not say it would be negligible.

6 Senator Curtis. That is the report we got when we intro-
7 duced the bill.

8 VOICE: It depends whether you are going to pay it just
9 to the widow, or other survivors.

10 Senator Curtis. This is confined just to the widow.

11 VOICE: I do not have a cost on this figure.

12 The Chairman. Is it a substantial cost?

13 VOICE: I do not know.

14 Mrs. Stern. Mr. Myers just made a quick estimate of
15 .02. That is not a big cost, but it is not negligible either.

16 VOICE: Not negligible.

17 Senator Dole. Compared to what?

18 Senator Curtis. I will withdraw it at this time. I was
19 told it was a negligible cost.

20 The Chairman. Senator Bentsen?

21 Senator Bentsen. Mr. Chairman, the National Commission
22 for the Control of Epilepsy has just released their report
23 and it shows the problem that people with seizures have in
24 obtaining private health insurance. I would like to have an
25 amendment to H.R. 7200 regarding a study mandated for HEW to

1 determine the degree to which persons with seizures are
2 unable to obtain private health insurance, the extent to
3 which persons with epilepsy are an actuarially higher risk
4 group than non-disabled persons, the cost and merits of
5 extending Medicare coverage to some people with epilepsy.

6 That is the recommendation of the National Commission
7 for the control of epilepsy and its consequences. I think
8 it is a meritorious one.

9 The Chairman. A study?

10 Senator Bentsen. Yes.

11 Senator Nelson. Let me ask a question now on procedures
12 here. Each of these costs some money. It seems to me we
13 ought to adopt a basic plan and see what it costs. Then if
14 we can get more money to add to these meritorious proposals.

15 The Chairman. All he is asking for is a study?

16 Senator Nelson. I thought you were asking for the
17 coverage.

18 Senator Bentsen. No, certainly not. No.

19 The Chairman. A study.

20 All in favor, say aye?

21 (A chorus of ayes.)

22 Senator Dole. Could I ask one question?

23 Is this going to be limited to epilepsy?

24 Senator Bentsen. It would specifically be limited to
25 those people who have seizures.

1 Senator Dole. There are other handicaps, if there are
2 no objections, that we might include that have the same
3 problems that you pointed out with regard to epilepsy.

4 I think it is a good amendment. If there should be
5 others included, we could determine that in the study too.

6 Senator Bentsen. I have no objection to that.


7 The Chairman. Without objection, it is so amended.

8 Mr. Stern. I did raise this one matter in connection
9 with the raise base increase. In the past, the Railroad
10 Retirement taxes follow what you have done for Social Security.
11 What is different in this case is that you are now raising
12 the taxes for the employer.

13 The Railroad Retirement program has two parts to it, the
14 part that is funded the same way the Social Security and the
15 part that is negotiated between the railroad management and
16 labor.

17 Our suggestion is that you do not modify anything on
18 that second tier, that the taxable wages go up. Whatever
19 you do for Social Security, it would be for that part and not
20 for the other part.

21 The Chairman. Without objection, agreed.



22 We have agreed to the financing through 1985, but
23 technically I am not sure that we have agreed to the tax
24 increases which are increases on both employer and employee
25 after the year 1985, and I would suggest we agree to that part

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of the proposal. In any event, we are going to have to raise the long-term financing.

Senator Danforth. Mr. Chairman, I was just wondering whether it would be in order, maybe we have disposed of it, but to suggest that in lieu of the tax rate increase of Social Security, we substitute coverage of Federal employees.

The Chairman. I do not think that you would raise that much.

Senator Curtis. Did you read last night's "Star"?

Senator Danforth. No.

Senator Curtis. The House Ways and Means Subcommittee voted to do that. They have already mobilized a gigantic effort to defeat it.

I think it should be done, but for political realities, I just do not know whether they can overcome the Civil Service lobby or not.

Senator Nelson. I think it should be done, too. In the brief look I took at it, it is terribly complicated to decide. There are a lot of financial questions.

I think we should have hearings, myself.

Senator Danforth. My notion of doing it is the effect of doing it insofar as the Federal employees are concerned, would be that they would be paying the same aggregate tax or pension payment that they are paying now, and that their benefits would be the same as they are receiving now.



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I am told that the effect of this would be about a \$22 billion, at least in the short-run, savings in Social Security over this five-year period of time.

While it does require some work to pull it off in about three to six months, it can be done; it seems to me if you can hold harmless the Federal employees with respect to the total amount paid and the total amount received and at the same time limit, or eliminate, the tax increases called on by your proposal, it would be the best of all possible worlds.

Senator Nelson. There is an unresolved question that at least has to be explored. Obviously it cannot, and you do not propose it, and could not, I suggest, take away any vested rights in any pension plan.

What do you do for the future, once you pass it for brand-new employees? Do you decide that they will only be covered by Social Security and some other, like a KEOGH plan for those who want to contribute more, or do you cover them by Social Security and then they pay the difference into Civil Service of 1 or 2 percent, then when Social Security goes above Civil Service, they are out of the Civil Service plan.

It is a tough policy question.

Senator Danforth. It is the same sort of thing as a private employer-employee situation where there is a pension plan in addition to Social Security. That is a standard way of operating.



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1 I think it is just not for future employees. I would
2 do it as future payments, so the two could be melded together.
3 Two checks, instead of one.

4 The Chairman. That is going to require more discussion
5 than we can give it at this moment. The Senate is voting.

6 I would like you, Senator Danforth, to bring that up
7 this afternoon, and we can discuss it then and perhaps reach
8 a conclusion on it.

9 I want to ask the staff, can we get a room over in the
10 Capitol Building this afternoon to meet?

11 Mr. Stern. We are trying.

12 The Chairman. I suggest that we come back here at
13 2:00 p.m.

14 Senator Nelson. Let me say, Mr. Chairman, if you are
15 going to deal with the alternative plan at all, I think that
16 I am stuck on the Floor with the legal services bill which I
17 am managing.

18 Senator Hansen. Mr. Chairman, I am not sure how late
19 you might plan on running -- not that my absence will be
20 missed, but I will be gone this afternoon.

21 The Chairman. Senator Bentsen has something he thinks
22 he might dispose of immediately.

23 Senator Bentsen. Let me say what I have is a bill that
24 we passed out of this Committee, H.R. 422. I would like to
25 have a Committee amendment that would allow the transfer of

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1 public health service hospital from the Galveston facility
2 to a Nassau Bay facility. That is a new facility that went
3 bankrupt. The public health service hospital in Nassau Bay
4 is 47 years old and in danger of losing its accreditation.

5 This is more cost-effective. It is according to HEW's
6 plans. They are for it; they have supported it. It has
7 been attached to the House bill and is an amendment to the
8 rural clinics bill that we have in H.R. 422.

9 I do not know of any objections.

10 The Chairman. If there is no objection, then it is
11 agreed.

12 Senator Dole. I may have one somewhat like that later
13 on this afternoon. I will bring it up.

14 The Chairman. Let me suggest, then, that we meet here
15 at 2:00, and that those who cannot be here -- I hope they
16 will leave their proxies with someone who can.

17 Apparently, we can have S-126 at 2:00 o'clock in the
18 Capitol Building. I suggest we meet in S-126.

19 Those who are not able to be there, I hope they will
20 put their proxy with someone who thinks most like they do, and
21 we will try to move on ahead and make as many decisions as
22 we can.

23 Thank you very much.

24 (Whereupon, at 12:30 p.m., the Committee recessed, to
25 reconvene at in Room S-126 at 2:00 p.m. this same day.)



AFTER RECESS

(2:15 p.m.)

(The Committee reconvened in Room S-126, the Capitol Building.)

The Chairman. I would like to suggest that we agree on a part which I do not think is too controversial of the Nelson amendment, and that is to move that we increase the taxes on both the employer and employee in the years subsequent to 1985, that goes on to the year 2011.

Those taxes amount to an increase on both employers and employees and, based on what we know now, those taxes would make the program solvent to the year 2011.

Senator Nelson. 2051.

The Chairman. 2050.

So I would urge that we adopt the remainder of the amendment, which is the tax increase up to the year 2050.

If there is no objection, that is agreed to.

Mr. Stern. That incorporates the feature of wage indexing under the 1976 replacement rate.

Senator Nelson. That is right. That supports the wage indexing, that supports the replacement rate at the 1976 level all the way to 2050, no reduction in the replacement rate.

The Chairman. Without objection, that is agreed to.

Mr. Stern. Mr. Chairman, can we also assume that we work

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out the figures for how much needs to be allocated to the disability insurance fund in order for both the disability insurance fund and the retirement on old age survivors will have the right amount of money?

Senator Nelson. Yes.

The Chairman. I would hope that the thing, that all these details could be put together and we can give it our final approval on Monday morning, just before getting into energy, so that we could at least have that there. We will give it pro forma approval, and you can show what all the figures are.

All right, what is the next thing that we have to decide?

Mr. Stern. I would like to suggest, in connection with disability insurance, that you direct the staff to study the disability insurance program after the recess and come up with suggestions of ways that that program -- suggestions that we might make for cost control in the disability insurance program.

The Chairman. I think that ought to be done. That program is greatly exceeding the costs. All kinds of people are coming in and claiming to be disabled that we never thought we were going to have to put on the rolls.

The President is concerned about it, and I guess the Department is concerned about it. They should have told us a long time ago.



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Without objection, then, staff will try to work out some suggestions.. You consult with anybody who may have some idea and those in the Department as to how we might control the cost of that program.

Mr. Stern. The next item is also part of Social Security, the proposal relating to how you treat dependent spouses in light of the court decision on equal treatment of men and women.

Senator Nelson's proposal, like that of Senator Curtis, adopted the staff alternative to the Administration proposal, namely to have off-sets. You look to see if somebody has a public pension, Federal or state, and you decrease the amount of the spouse's Social Security benefit by the amount of the pension.

This is the situation in which the husband, for example, has been working under Civil Service all his life and his wife has been working under Social Security. Since he has this kind of offset, he would not get any benefit, because he is not dependent on her.

The question was raised last week why there was a difference in the savings estimated that would result from this proposal compared to the Administration proposal. I do not think that there was anything satisfactorily resolved. We do not understand why there is a difference in the estimates.

We asked Bob Myers, former actuary, what his view on it

1 was. If it is all right with the Committee, he can just say
2 something about it.

3 The Chairman. Stand up and tell us what your view is.
4 Is there a difference in cost between the staff suggestion
5 and the Administration's proposal, Mr. Myers?

6 Mr. Myers. Mr. Chairman, I look at these figures -- I
7 was very much surprised that the Administration estimated
8 that their proposal was going to cost so much less than yours.
9 The reduction in cost of the staff proposal was only 30 percent
10 as large as the Administration proposal, and yet it is diffi-
11 cult to understand many cases that the staff proposal would
12 not take care of that the Administration proposal would.

13 On the other hand, there are many cases that the staff
14 proposal would take care of that the Administration proposal
15 would not.

16 Specifically, under the Administration proposal, the
17 main cases that would be taken care of that would not be
18 under the staff proposal would be those few instances where,
19 say, a woman would have a lot of money of her own and it was
20 clearly all her own. She was getting a large investment
21 income, or in the last few years before they both retired
22 she had the higher income because she was not working.

23 All of those things, I think, are very rare cases. On
24 the other hand, there are many instances where people are
25 getting Federal or state or local employee pensions that the

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woman -- as I say, the wife is getting them, and she has been the low earner all along. She would continue, as at present, to get both the state and local pension and the full wife's benefit under Social Security and full widow's benefit where if that woman had been working in Social Security employment, it would have been the offset.

The staff proposal, I think, would very largely put the offset against each of them.

The Chairman. Which proposal do you think would save the most money?

Mr. Myers. I am certain that the staff proposal would save more. How much more, I do not know. It certainly would not be only 30 percent as much. It would be at least 100 percent as much as the Administration proposal.

The Chairman. Do I understand that your study of it indicates that either the Administration proposal will not save near as much as they think they are going to save, or else the staff proposal is going to save every bit as much as the Administration proposal?

Mr. Myers. That is correct. I have not seen the basis of the Administration's estimate. I would suspect that their savings would not be as large as they have shown.

Likewise, whatever the savings are under the Administration proposal, the staff proposal would save more.

The Chairman. Maybe we ought to borrow their estimate

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and put the same figure in what they have. That being the case -- what do they estimate they are going to save without theirs?

Mr. Myers. It is varying amounts. It begins with \$100 million the first year and runs up to about \$1 billion a year in four or five years; on an average cost basis, percentage of payroll, it is something like .13 percent of the payroll.

The Chairman. Maybe we ought to agree to the proposal we think makes better sense, and then put the cost estimate in that will save the same thing. Whatever figure they have, then put an asterisk down there and say it absolutely defies us to see how they arrive at that, at the saving with theirs, but in any event, as careful analysis would indicate to staff that this proposal would save more, and just let it go at that.

It would appear to me, from everything that I can see, that what you are saying is correct, that the staff proposal saves just as much, and maybe more.

Mr. Myers. I think that it would be very conservative to say that it saved as much. It would save at least as much, and I think it would save more.

The Chairman. All in favor of the staff proviso, say aye.

(A chorus of ayes.)

The Chairman. Opposed, no?



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(No response)

The Chairman. The ayes have it.

Mr. Stern. We have one question to be brought up.

Mr. Humphreys. We are not sure what the point at which you index if you adopt an indexing proposal, as in the Nelson proposal. The Administration proposed that the formula would index it up to the date that the individual first became entitled to benefits.

If you give him that choice, he has to figure out whether it is more advantageous to delay filing for another year. There are lots of decisions. We think it would be more desirable to write the formula in such a way that the indexing would occur up to the year that he obtains age 62 so that the law would specify the closing point, as is generally the case for most of the Social Security benefits; other than when he retires he does not have a lot of other choices to make.

The Chairman. You index it to the point when he reaches age 62?

Mr. Humphreys. Yes.

Mr. Stern. What about after?

Mr. Humphreys. Once he is on the rolls, you do not index formula. You would index his amount by the changes in the cost of living.

The formulas that you start with, you would not index except once, and you have to somehow pick a closing point at

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1 the point in which you would index it.

2 The Administration's version says whenever he first
3 receives benefits, which means he has to figure out whether
4 it is more advantageous to begin this year or next year.

5 Senator Curtis. May I ask a question?

6 Suppose there was a very marked inflation from the time
7 a person was 62 until he retired. He did not retire until
8 65 or 70.

9 Why choose that 62?

10 Mr. Humphreys. Because -- the reason for choosing 62,
11 most-people, because a lot of people come in at age 62 and
12 if you chose -- actually, it is two years before you reach
13 age 62, you have to have validated the information available
14 at the time he applies for benefits.

15 Senator Curtis. If it is two years before, there could
16 be terrific inflation between 65 and 70.

17 Mr. Humphreys. You do increase the benefits for the
18 inflation taking place at the point where you stopped indexing,
19 so as far as the inflation goes, that would not matter, but
20 it is true, if it was the matter of up to the date of
21 entitlement, he would have to worry whether there is much
22 wage growth between 62 and 70 and other factors to consider
23 whether to draw benefits at 62 or wait until 65, or wait
24 until 67, even.

25 The Chairman. Your idea is that he has the right to

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1 retire at 62 or thereafter. Therefore, your thought is,
2 your thought is indexing his benefits from age 62, because
3 he has the right to retire at that point, right?

4 Mr. Humphreys. It is actually the point to which you
5 index his wage. You are shifting over to a formula where
6 you would be basing the individual benefit on wages that are
7 not the real wages he earns, but wages that are inflated to
8 take into account how wages will increase in the economy from
9 1950 to some point.

10 For example, if wages have grown double in the economy
11 and he earned \$3,000 in 1950, you would count it as \$6,000.
12 It is a question of double from what point to what point.
13 We are suggesting the point ought to be two years before
14 he reaches age 62.

15 The Chairman. Two years.

16 Mr. Humphreys. When he comes in to apply at age 62,
17 they will not have the information current up until that
18 date. After that date, you have to increase it for price
19 changes.

20 The Chairman. Do you understand that, Mr. Myers?

21 Mr. Myers. Personally, I strongly support that approach.

22 The Chairman. Would you mind explaining it your way,
23 how that works?

24 Mr. Myers. The idea of this indexing approach is that
25 it will treat all people the same. The individual cannot



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1 choose something, or have made a mistake. Everybody who
2 reaches retirement age will have their indexing as though
3 they reached age 62. If they wait later to retire and there
4 is inflation, they will have the advantage of all cost of
5 living increases from age 62 to when they actually do retire.

6 It seems to me that it makes it much easier for both
7 the Administration and as far as the Social Security staff
8 is concerned, because they do not have to advise people to
9 do something and then have somebody come in and say, you told
10 us the wrong thing.

11 They leave it up to the beneficiary. They cannot under-
12 stand the complexity of this and make a proper decision.

13 Senator Curtis. You do not think it will be a disincen-
14 tive for them to delay retirement?

15 Mr. Myers. No.

16 Senator Curtis. They get the cost of living.

17 Mr. Myers. It will not be an incentive or a disincentive.
18 It has a neutral effect.

19 Senator Curtis. The indexing would upgrade their
20 average wage?

21 Mr. Myers. Yes.

22 Senator Curtis. The cost of living increase is usually
23 a percentage of the benefit.

24 Mr. Myers. Yes, that is correct.

25 Senator Curtis. Do the people at age 62, that retire at

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age 62, do they get the benefit of both? They have their average wage graded up as well as the cost of living?

Mr. Myers. Their average wage is graded up, in effect, from age 62. From that point on, they have the cost of living increases.

The person who works beyond age 62, if he gets wages after 62, he can use them, but they are not indexed. But they get the cost of living increases anyway from 62 on.

In my view, it treats people completely equitably regardless of when they retire, when they decide to file, and so forth.

The Chairman. It makes for uniformity. If I understand the way it stands now, the person might gain and he might lose, depending on whether he retires on the indexing, depending on whether he retires at age 62 or age 63 or age 65 or whether he might win or he might lose on the inflation aspects of it.

Mr. Myers. Under the Administration bill, yes. In present law, the way the law has generally been in the past, it has already been arranged so that a person would not be hurt by filing. They have assured that people who have made a mistake, who file at one time, are not adversely or favorably affected against somebody who is more knowledgeable and files at another time.

The way the Administration bill is, this can happen. A

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1 person, by filing at different times, can be treated quite
2 differently. In hindsight, he might say, I should never have
3 filed; I should have waited. Or conversely.

4 The Chairman. If we adopt this amendment, that could not
5 happen?

6 Mr. Myers. That would not happen. It takes away any
7 haphazardness about the benefit amounts or the date of filing.

8 Senator Matsunaga. With two people the same age, the
9 same size scale, one decides to retire at age 62. At that
10 time, say his Social Security benefits are determined to be
11 \$260.

12 Now, Mr. B works until he is 70. Now, what you are
13 saying, this amendment will give Mr. B \$260 plus the cost
14 of living increases?

15 Mr. Myers. That is not quite it, Senator. In your
16 example, Mr. B would probably get more because he has been
17 earning. The example might be this.

18 Mr. A and Mr. B, as you say, at the same age --

19 Senator Matsunaga. A retires at 62.

20 Mr. Myers. Mr. A and Mr. B are the same age. They have
21 the same earnings record. They both work until age 65.

22 Mr. A makes a mistake, or he might make a mistake. Mr.
23 A files when he is 62. He does not get any benefits, but
24 he files his claim at 62, thinking he might retire. He
25 decides not to.

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1 Mr. B waits until 65. They both actually retire the
2 same date. They both have the same earnings record, but
3 because one filed at a different date than the other, they
4 will get benefit amounts.

5 It is quite likely that Mr. A, who filed at age 62, would
6 them decide to work until 65, would get less because he made
7 the mistake of going into a Social Security district office
8 and filing a piece of paper.

9 Under the staff proposal, they would both get the same.

10 Senator Matsunaga. I see.

11 Senator Curtis. It does not interfere with the increment
12 they get by reason of delaying their retirement?

13 Mr. Myers. That has no effect, either.

14 The Chairman. I do not understand it that well. The
15 fact that Bob Myers has always been the best actuary I have
16 known on the subject, and our staff, who understands it better
17 than I do, are positive that they are right about the matter
18 as far as I am concerned for the time being, that is settled.

19 That is how I will vote. I do not think anybody in this
20 room is sufficiently knowledgeable to challenge on it. For
21 the time being, we ought to take it on faith.

22 Senator Matsunaga. I am always for Justice. This seems
23 to be for Justice.

24 The Chairman. It seems to promote equal justice, and
25 that is what we are for.

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Is there objection?

With no objection, it is agreed.

Senator Curtis. I would like to raise a point that I raised back before lunch. This was a case of a man who elected not to retire at 65. He waited until 69. That gave him an increase in benefit over the fact that he retired at 65.

After drawing a couple of months, he died. His widow applied for benefits and they said your benefit is fixed on what he could have gotten at 65, not on what he got at 69, and of course, that is wrong. She was entitled to a wife's benefit for four years and did not apply for it.

When this case was presented to me, we contacted the actuarial department in Social Security. They said the cost would be negligible.

I introduced this bill to fix the widow's benefit based on what the husband was actually getting. This morning, somebody, either the Administrator or someone speaking for him, said that it would not be negligible. Well, later on he said, sometimes what the actuaries say is negligible is not really negligible. If they do not know, I do not know who does.

We pressed for an actual figure, and it is .0045 percent.

The Chairman. Then it is negligible.

Mr. Myers. Mr. Chairman, what you have done over the

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1 years, if anything costs less than .01 percent of taxable
2 payroll, you said it was negligible. This particular proposal
3 costs -- the estimate is, and I have no reason to think it
4 is wrong; at first I thought it was, but I have never really
5 gone into it.

6 The estimate is .0045. If it were just a little higher,
7 you would round it to .01. It is virtually negligible.

8 The Chairman. That is what we call negligible. .0005,
9 that is negligible, or less.

10 Senator Curtis. This is less.

11 The Chairman. So it is negligible.

12 Senator Matsunaga. What does it come out to in terms
13 of dollars?

14 Senator Curtis. I do not know.

15 The Chairman. Let us have an answer.

16 Mr. Myers. .01 percent of payroll currently is \$80
17 million, so this would have a cost -- not the first year --
18 a cost averaging equivalent about \$40 million a year.

19 The Chairman. In this league, \$39 million is negligible.
20 That is how the Department does this. I did not write that
21 rule; they wrote that rule.

22 Senator Curtis. I would like to have a vote on my
23 amendment.

24 The Chairman. All in favor, say aye?

25 (A chorus of ayes.)

1 The Chairman. Opposed, no?

2 (No response)

3 The Chairman. It is agreed.

4 Mr. Stern. Could we put all of these various things
5 together?

6 The Chairman. Let us all understand that we all do
7 agree in terms of fiscal responsibility that it is possible
8 to put enough negligible items so they add up to something
9 that requires a further tax increase. We all agreed to that.

10 Mr. Stern. At one point, you were talking about the
11 desirability of having the tax base increase occur in one
12 step, rather than three. I want to call to your attention
13 what you tentatively agreed to: \$25,000, \$40,000, then
14 \$100,000.

15 The Chairman. I would like to move that the first
16 increase be January 1, 1979. If you do it in January 1,
17 1979, you would put the whole thing into effect January 1,
18 1979.

19 It has a great to recommend it. One of the things
20 that recommends it, we hope to get the House to agree to
21 this -- on January 1, 1979, we will let the House vote for
22 it and the impacts we will not get until after the next
23 election, so all of those people who have to run next year,
24 I think they can live with that.

25 I would suggest -- and that would avoid having all of

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1 this conversation, all of these arguments every year for
2 the next three years, about the increase. One time, it is all
3 over.

4 Senator Nelson. I would rather have it in three steps.
5 Constituents will be talking to you, but they will not talk
6 to me at all unless they are mad about something.

7 The Chairman. I do not like to talk to irate constitu-
8 ents. I like to talk to them when they are not angry, in good
9 humor.

10 All in favor of the motion, say aye?

11 (A chorus of ayes.)

12 The Chairman. Opposed, no?

13 (A chorus of nays.)

14 The Chairman. The ayes appear to have it; the ayes have
15 it.

16 You will be glad that we prevailed, Senator. You just
17 wait.

18 Mr. Stern. That concludes the Social Security financing.
19 We will have it ready for you to look at Monday morning.

20 Senator Nelson. Did we cover item 6 on page 3? That is
21 the self-employment tax.

22 Mr. Stern. That was agreed to last week. I assume the
23 effective date of 1981 was agreeable.

24 The next item we have on the agenda, Mr. Chairman, is
25 related to foster care and adoptions. We wanted to call the

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1 Committee's attention to some suggestions that may save a
2 possible area of dispute.

3 Senator Cranston had originally introduced the Adminis-
4 tration's foster care and adoption bill.

5 Senator Curtis. By the way, that cost is better than
6 what I thought -- better to go on this bill for widow's
7 benefits. The cost was figured on present law. Decoupling
8 it would be less.

9 Senator Danforth. Mr. Chairman, have we finished
10 Social Security?

11 The Chairman. We have finished the Social Security part
12 of the Social Security. If you want to bring up your amend-
13 ment, go ahead.

14 Senator Danforth. I just want to make sure what we
15 ruled out and what we ruled in. We have decided that we are
16 going for wage indexing rather than cost of living indexing,
17 is that right? Have we made that decision?

18 Mr. Stern. That was done a little bit earlier, to adopt
19 the tax rate increases towards the end of the century that
20 Senator Nelson proposed, and wage indexing at the same time.

21 Senator Danforth. There is a difference in the effect
22 on the system of going one way rather than the other, right?

23 Mr. Stern. Yes.

24 Senator Danforth. We would be better off as far as the
25 long-term solvency of this system if we retained cost of



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1 living indexing rather than wage indexing, right?

2 Mr. Stern. You would not need the size of the tax
3 increases that were tentatively approved.

4 Senator Danforth. The size of the rate increases.

5 Mr. Stern. That is right. What has been agreed to up
6 to now is actuarially sound. You would have a lower tax rate
7 increase.

8 Senator Danforth. We have come up with lower taxes under
9 Senator Nelson's proposal that would create a solvent system.
10 However, we could have a lower tax-rate increase if we kept
11 a cost-of-living indexing than if we keep a wage indexing,
12 right?

13 Senator Nelson. You would have a lower replacement
14 rate.

15 Senator Danforth. Right, but different.

16 The concept of replacement rate really is not the concept
17 of price indexing, as I understand it. It would be cheaper.
18 Have we closed that issue out? I do not happen to agree with
19 the way it turned out.

20 If I had any sentiment, I would press it further. Have
21 we pretty well decided that one?

22 The Chairman. We have for now. It can be reopened.
23 That is our standing now.

24 Senator Danforth. It is so complicated to explain the
25 darned thing that I am not inclined to reopen it unless there

1 is something of a groundswell of support for reopening it.

2 I do not sense it.

3 The second question is whether or not to bring in
4 governmental employees. The House did it, the Subcommittee
5 anyhow, for Federal, state and local employees. There is a
6 constitutional question about state and local employees,
7 whether it can be done, but there is no constitutional ques-
8 tion involving the Federal employees.

9 The Federal employees alone would bring in, over the next
10 three years, some \$22 billion in additional revenue for the
11 Social Security system, and if we did that, it would seem to
12 me that we could then substitute that approach for the
13 increase in the tax rate that we agreed on this morning.

14 I think it is fair. As a matter of fact, the question
15 of whether or not it is saleable politically, I know there
16 is an initial reaction against it, but when I proposed it a
17 month or so ago, the Federal employees who called into my
18 office who expressed concern about it, we pretty well took
19 the sting out of it by just explaining it very briefly.

20 As a matter of fact, during my campaign for the Senate
21 last year, I expressed this view quite frequently that this
22 is what we should do. I won, despite the suggestion. I
23 do not think that is just politically poison. I think it is
24 fair, and if we were to say to the American people in place
25 of an increase in your Social Security tax rate, we are going

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1 to have universal coverage and the result of universal
2 coverage would be that the aggregate contributions of Federal
3 employees to both the pension program and the Social Security
4 system is no greater than their contribution now to the
5 pension program, and that aggregate pay-out from Social
6 Security and pension will be at least as good as it is now
7 from the pension program, I think it is very saleable and
8 very fair.

9 I think that the way it is now, you really have an
10 anomaly in the fact that Federal employees are treated
11 differently from everybody else in the world and I think
12 that that is not a very healthy way to look at the relationship
13 between Federal employees and the rest of the country.

14 Senator Nelson. I agree with everything you have said,
15 and I am for it. I will vote for it one of these days.

16 My problem in looking at it is that I do not know how
17 you handle, as I mentioned this morning, it may be wise to
18 put all future Federal employees under Social Security,
19 period, and not have a Civil Service system, and set up a
20 KEOGH-type system for those who want to save more and get
21 the tax benefit of the deduction that we allow for those
22 under KEOGH.

23 I do not know whether that is a good idea. I would like
24 to see some hearings on it.

25 I agree with you that every Federal employee should be

1 covered by Social Security, but we have the other question
2 at the same time that we might want to deal with it quite
3 differently.

4 You cannot take vested rights away. So if you said,
5 do I vote for the principle, I would say yes. If you say,
6 would I vote for a specific proposal right now, I guess I
7 would have to back off, because in looking at it, there are
8 too many things that I have not been able to resolve in my
9 own mind about what ought to be done.

10 Senator Moynihan. I would just like to support Senator
11 Nelson and Senator Danforth, and make a general point, Mr.
12 Chairman, which is that this Committee has been asked by the
13 Administration in the most casual way to make changes of the
14 most extraordinary consequence to our Social Security system.

15 Are we aware here that the President has not even sent
16 us a message on the subject?

17 The first major change in 40 years in the system, and
18 the President does not send a message.

19 For example, Mr. Chairman, we have done something which
20 anybody who has had some experience in labor and management
21 negotiations knows that we have had up until now exactly
22 equal employer-employee relationship in Social Security.
23 We broke that today in this Committee, and we broke it to the
24 disadvantage of the employer.

25 In the history of employee-employer joint pension systems,



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that break is not a happy one for the employer. They negotiated and pretty soon it is not a joint contribution. It is a big event.

If you know something about it, if you are interested in this world, it is. The President did not even send us a message.

I think Senator Nelson makes the point and Senator Danforth, he would like to know a little bit more about it. He would like to have some hearings, I assume.

Senator Nelson. I intend to have some hearings, if you do not act now.

Senator Moynihan. If the Administration does not take these things seriously, let us do so.

Senator Danforth. Has the staff done any work in working out how this could be accomplished? Is this strictly an idea that has been popped out of my head?

There has been some degree of thinking about it, has there not?

Mr. Stern. We have thought about it. We have not thought about it for an extended period of time. As a general concept, it seems to be quite workable.

Senator Danforth. As far as working out exactly how it would be integrated with the present programs, have there not been some projections as to how much time that would take to work it out?



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Mr. Stern. It is not so hard to work out in the case of somebody works all of his life in Civil Service. The complicatedness of it is because a lot of people have worked outside of Civil Service, and both the Civil Service formula, and particularly the Social Security formula, is rather skewed at low-average wages, and how you allocate the advantage of that skewing between that Social Security fund and the Civil Service fund is one fairly significant problem to work out.

Senator Curtis. When we take the lid off, it will cost a Senator \$3,478 Social Security tax per year.

Senator Nelson. It will go higher than that. It should. You have a replacement rate question in the higher rates in Social Security that you will have to look at. I will have hearings -- I have not looked at my schedule. I intended to start it in November. I never said it flatly, but I would be happy to start in November on this exact question, because I agree that it is an important question.

Senator Danforth. Let me ask you this. I think Senator Moynihan is exactly right. This is a momentous day in changing directions for Social Security, and once we do something, it seems to me to be pretty hard to undo it, and yet time is of the essence. If we keep putting it off, we are going to have to make more money to fill in the hole at some later time.



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How would this work out. Is there a possibility of requesting the Administration to present us with some specific proposals on universal coverage and exactly how it would work, and then proceeding to hearings.

If we decide six months from now, yes, here is something that we should do, is there some way to undo at least part of what we are doing today?

Senator Nelson. On that point, I discussed this exact thing with Neil Champion this morning. They said they were, in this brief period, they were not prepared to conclude what ought to be done, and if you did conclude what ought to be done, how to do it. That was the status as of 8:30 this morning when I talked to him.

Mr. Stern. In the past, under the old, static actuarial assumptions, it would happen every couple of years when the program was reviewed. It turned out the tax rates written in the law for the near future were somewhat higher than you needed, so it had been Congressional practice to reduce revenues to the extent that they were not needed.

I assume if you did adopt something that did give you short-term savings, you could reduce tax rates at the same time.

Senator Danforth. I definitely want to be in attendance on the day that we do that. I am not going to put it in the form of a motion, Mr. Chairman, because I think I see the way

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it is going, but I would appreciate it if Senator Nelson could follow up on the hearings and if the Administration could be requested by us to come up with some specific proposals on how universal coverage would work.

Could we do that?

Senator Nelson. I would send a letter to them next week. Without looking at my schedule, I will make a commitment to start hearings this year, mid-November or early December on this exact question.

Senator Danforth. Great.

Senator Matsunaga. When you say universal coverage, do you mean just Federal, or are you including in municipal and state?

Senator Danforth. I think ideally they would all be brought into it. I think there is a constitutional problem in including on a mandatory basis state and local. They are in it now, but they have the opt-out possibility.

As a matter of fact, with increasing the base, we are going to see some more opting out. It is a constitutional question as to whether or not we can hold them in.

Senator Matsunaga. The biggest question is, where municipalities and states are concerned, can they afford it? Unlike merchants, they cannot pass it on.

The Chairman. Let us take the next point.

Senator Curtis. Mr. Chairman, I have two matters that

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1 have passed before. I want to call them up. If it is the
2 will of the Committee not to consider them, that is that.

3 One is if an employee works for several employers and
4 has his Social Security tax taken out of wages above the tax,
5 he can apply for a refund. The employer cannot, and where
6 it is a parent company and other companies, really one owner-
7 ship, and they have an employee or employees working for
8 several, and they pay on more than \$16,500 which is the cap
9 now -- and it will be raised -- they cannot file for refunds.

10 We passed that here once. We did not carry it in
11 conference.

12 I want to say this about this proposal. I do not think
13 that the cost is great, but on this proposal and the next
14 one I will mention, rather than at this stage of the game
15 create some budgetary problems, if the Committee wanted to
16 take them, I would make them effective a year from now.

17 Mr. Stern. If you make this effective in 1979, I think
18 the effect would be really minimal. You would have to have
19 an employee who was making more than \$100,000. You would
20 have a very small effect, I would think.

21 I do not think there is any budget problem.

22 The Chairman. How about making it effective January 1,
23 1979? It would have a very minimal impact.

24 Without objection, agreed.

25 Senator Curtis. The other one is more costly but it is

1 one that the Senate has passed several times, and that deals
2 with the disability benefits of the blind.

3 Very frankly, that is more costly. It allows qualifica-
4 tions for disability benefits to the person who is blind
5 according to the generally accepted definition of blindness --
6 that is 20/200 -- and whose works six quarters in Social
7 Security-covered work.

8 It continues the payment of the benefits, irrespective
9 of earnings, so long as the blindness lasts without cutting
10 off the benefits if the blind person earns as little as
11 \$200 a month as provided in existing regulations.

12 Blind people are encouraged to earn and to improve
13 themselves and they have a lot of additional expense. They
14 have additional expense in travel to and from work. Some of
15 them have to have dogs; some of them have to have readers
16 if they are in the professions.

17 We have passed this about six times. I think the Senate
18 has passed it, the House has not.

19 Senator Dole. What is the cost of this?

20 Mr. Stern. I think it is pretty significant.

21 Senator Curtis. A significant cost.

22 Senator Nelson. Is this SSI?

23 Senator Curtis. Disability benefits under Social
24 Security. We have passed it before.

25 Senator Nelson. How much did it cost?

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1 Senator Curtis. I do not recall. It is significant.
2 It would have to be delayed a year, because we do not want
3 to have to go to the Budget Committee.

4 Senator Nelson. We could call it the Carl Curtis bill.

5 Senator Curtis. No. I had one that was negligible,
6 but this one is very noticeable. It is a sizable thing. The
7 Committee discussed it before. I would like to see it on this
8 bill, but it is up to the Committee.

9 Mr. Stern. The last time it came up it had a premium
10 cost of something like 11.1, which in average terms is \$800
11 million. It is a very significant cost.

12 Senator Curtis. I want to be very frank. It is a
13 significant cost because it is something that the blind --

14 Senator Dole. There is another question. I am sympathetic
15 to the bill. I am not certain it covers others who might be
16 equally handicapped, and there has been some objection to it
17 on that basis.

18 I have talked to those sponsoring the bill today. Of
19 course, they would like to have it added on at this time.

20 Mr. Stern. There are some significant policy questions
21 here. One is whether a blind person should get disability
22 benefits if he is working full-time. The bill says he should.
23 Up until now, you have said if a person is actually engaged
24 in gainful employment, he is evidently able to engage in
25 gainful employment.

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1 Senator Nelson. I would not vote for it without knowing
2 what the cost was and how much more tax. I am wondering if
3 you could not include that in your disability study that you
4 are going to make.

5 The Chairman. I do not know whether that is the same
6 amendment.

7 Senator Curtis. It is the Hartke amendment.

8 The Chairman. The way I recall it, when we had this
9 same amendment in conference, it was dropped in conference.
10 We had a very able man working for us as Under-Secretary of
11 HEW at the time. He later became Secretary. His name was
12 Wilbur Cohen.

13 He said under that amendment, I am totally disabled and
14 I can qualify for it. Anybody who ever worked with Wilbur
15 knows he is about the ablest man in the Department of HEW.
16 He went on to become Secretary of HEW and had to use his eyes
17 to do it.

18 I have a lot of sympathy for people who have a handicap.
19 I have known people who went right on in law school and became
20 good lawyers having somebody read for them. I have a lot of
21 sympathy for those old people, for those people. Why not
22 wait for the House to send us a bill on it?

23 I understand they are talking about sending us one.

24 Senator Curtis. If they do include it in that study,
25 we might end up with something not exactly like this. But I

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1 think the study ought to take into account --

2 Senator Dole. The Bentsen study.

3 Senator Curtis. The peculiarities of blind disability,
4 because they do have certain other handicaps; at the same
5 time, they are a class of people who should not be discouraged
6 from working.

7 But if it is the will of the Chairman that we wait to
8 see what the House does, that is what we had better do at this
9 time.

10 The Chairman. There is one thing that concerns me about
11 that general problem. There is a man named V. J. Shrug, a
12 very able businessman. He just finished serving as the
13 head of the Alliance for Business, these businessmen who are
14 trying to find jobs for these veterans or whoever.

15 He is a big advocate of rehabilitation and helping people
16 to find jobs. He many times tells me how someone challenged
17 his views about rehabilitation -- he was saying this
18 shortly about the time of World War II. He said, you do not
19 need to go any further than the White House to find your
20 outstanding example. There is a paraplegic sitting up there,
21 doing the most difficult job in the entire world, serving as
22 President of the United States and doing a good job of it,
23 and that man is a paraplegic.

24 You have a man here who is the head of the Veterans'
25 Administration who is in the same situation -- no legs, going

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1 a great job in the VA, so that it is a difficult problem,
2 there is no doubt about it.

3 When we get into it, there is a lot to do with rehabilita-
4 tion, but there is enormous cost and if you are going to do
5 justice, especially equal justice in this area.

6 Senator Curtis indicates to me that it is all right with
7 him if we let this go. The House is thinking about acting
8 on it. If they do, we will bring it up then.

9 Senator Dole. Was there some mention of a staff study?

10 Mr. Stern. Earlier, the Committee directed the staff
11 study the disability insurance program in general on a cost-
12 savings basis, to look for ways of saving funds.

13 The Chairman. What we are worried about there is that
14 the program is out of hand. The time we started that program,
15 we started out with about 1 percent of our people qualifying
16 as disabled. Now we look at it and it is 3 percent disabled.

17 There is no way -- remind you, it goes one way or the
18 other. Either you are totally disabled or you do not get
19 the benefits. And that being the case, the courts are inclined
20 to say if it is a choice between declaring the person
21 totally disabled and denying them benefits, we declare him
22 to be totally disabled. But not from 1 percent to 3 percent.
23 It is building up.

24 Out in California, they tell me that these drugs are
25 become more and more a problem with young people. Now they

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1 are starting declaring drug addicts to be totally disabled,
2 alcoholics to be totally disabled.

3 At that rate, if you will look at what happened in,
4 Belgium, I read in the newspaper -- I have no reason to
5 challenge this -- they have a parallel program in Belgium
6 where they have 10 percent of their population classified as
7 totally disabled on those rolls, the same kind of program.

8 We started out at 1 percent and we are up to 3 percent.
9 I do not know where they started out, but they are up to
10 10 percent. It is a compassionate area, but it is also an
11 area where unless we really exercise a lot of care, we are
12 going to have a runaway cost in our program.

13 Senator Dole. I am just curious; I assume it may be
14 offered on the Floor. We will have the facts on this
15 amendment and what it might cost if you included others who
16 have severely handicapping disabilities. You will expand
17 the cost, of course.

18 I do not know where you draw the line, or if there is
19 any way to modify this. It may be helpful if we had that
20 information.

21 Mr. Stern. Right. We will do whatever we can.

22 The Chairman. We will pass this for now. We can look
23 at it again, if the House sends it.

24 Senator Talmadge wanted to bring something up.

25 Senator Talmadge. Senator Laxalt has arrived now.

1 The Chairman. If we can dispose of this, because he
2 wanted to bring it up when Senator Laxalt was here.

3 Senator Talmadge. We have only one undisposed issue,
4 and that is S. 143, that is the confidentiality of medical
5 records.

6 The Ways and Means Committee has the Crane amendment.
7 Of course, there is divided jurisdiction in the House, as
8 the Committee knows, on Medicaid and Medicare. The Committee
9 on Interstate and Foreign Commerce in the House rejected the
10 Crane amendment and the Satterfield amendment, and at the
11 request of Senator Laxalt, I had hearings on this issue
12 yesterday morning.

13 Senator Dole was there. Senator Laxalt was there, and
14 I was there, and every witness testified against the Crane
15 amendment, including every branch of the government, every
16 branch of the medical profession, the National Institutes
17 of Health, the Center for Disease Control in Atlanta.

18 They said that it would stop their programs entirely.
19 The Department of Justice is opposed to it. They could not
20 properly enforce the law in Food and Drugs.

21 They have, under the Privacy Act, appointed a Commission
22 to make recommendations in this area. I understand that the
23 hearings have been held and that there is a huge book of
24 papers on it. The Department is expected to send legislation
25 to Congress on, I believe, October 13th.

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1 At that time it is my intention, or as soon thereafter
2 as possible, to deal with this very complex issue, but if
3 we put anything like that in this bill, every facet of health
4 care and law enforcement in this country will be stymied.

5 I propose that we adopt the same amendment that was
6 adopted by the House Committee on Interstate and Foreign
7 Commerce.

8 Jay?

9 Mr. Constantine. I do not think Senator Laxalt formally
10 offered an amendment. He is interested in the Committee's
11 considering it, on the Crane amendment and to some extent on
12 the Satterfield amendment.

13 There is a great deal of testimony where it was left, it
14 is essentially the last remaining issue on S. 143.

15 The House has not acted. It will act next week on the
16 Anti-Fraud and Anti-Abuse amendments.

17 S. 143 also contains the provision --

18 Senator Talmadge. May we have order, Mr. Chairman?

19 The Chairman! Let us have order.

20 Mr. Constantine. It should be stated that the bill does
21 contain a provision that relieves the states of liability
22 for failure to conduct required utilization reviews. Effective
23 Effective October 1, the Secretary will impose \$250 million
24 in reductions on states, including Nebraska and so on and
25 other states, Kansas and what have you.

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1 The point is, there is a need to move quickly on the
2 bill, once you resolve this disputed matter on confidentiality.

3 Senator Talmadge. October 1st is the deadline?

4 Mr. Constantine. It is non-discretionary on the cut-
5 backs. The issue is whether you want to adopt the restrictive
6 amendment of Ways and Means, the Crane amendment or the
7 considerably less restrictive amendment on confidentiality
8 of medical records of the Interstate and Foreign Commerce
9 Committee.

10 Senator Laxalt. What is the status of that in the
11 House?

12 Mr. Constantine. The Committee has agreed on the bill
13 identically except for that one provision. Ways and Means
14 had the Crane and Interstate had the Rogers, and the House
15 is going to resolve it one way or the other.

16 Senator Laxalt. No action has been taken on Rogers?

17 Mr. Constantine. No, sir. The staff recommendation at
18 this point in view -- it is a very sensitive area, and one
19 we are very nervous about. There is no one on the Committee
20 who disagrees with the need for privacy.

21 Our recommendation is that you take neither the Rogers
22 amendment nor the Crane amendment. The Department will
23 submit its recommendations on October 15th, and then hold
24 a hearing on it and decide what you want to do.

25 Senator Dole. We raised that yesterday in the hearings.

1 What happens if we do nothing?

2 Mr. Constantine. Two things, Senator. One, if the
3 House adopts the Crane amendment -- that is in conference
4 with the Senate -- you could decide what you wanted to do at
5 that point. If the House adopts the Rogers amendment, that
6 is in conference of that point, in terms of what you do.
7 Or, if they adopt neither amendment, you can act on a separate
8 bill.

9 Senator Curtis. How is that linked to the relief for
10 the states that we were talking about?

11 Mr. Constantine. There is a separate section in this
12 big bill, S. 143. Essentially, everything else is completed
13 except for your views on this one as to which way you want
14 to go.

15 We have some minor suggestions to make on other matters,
16 but this is the last remaining major one.

17 Senator Laxalt. May I be heard on this?

18 The Chairman. Yes.

19 Senator Laxalt. As members of the Committee will recall,
20 I submitted and offered the amendment that is now called the
21 Crane amendment. This is a very serious and important
22 matter, because it was at the heart of what I feel to be
23 essential constitutional freedoms.

24 The issue is whether or not any Federal bureaucrats,
25 PSRO or otherwise, had the right to reach private medical

1 records without the consent of the person involved.

2 It has nothing to do with public records, Medicare,
3 Medicaid or any of the others. They are presently reachable,
4 and not effected by this piece of legislation.

5 In the hearing that we had for the purpose of determining
6 its effect of various programs, I agree with Senator Talmadge,
7 the consensus was that this would, I think, seriously impair
8 the important research that we have there. But I must say
9 that we had everybody who was a witness there had a statement,
10 and every one of those witnesses, in one form or another,
11 was a form of the bureaucracy here.

12 Senator Talmadge. No, they were not.

13 Senator Laxalt. With the exception of AMA.

14 Senator Talmadge. AMA and the fellow who represented
15 the American teaching hospitals and the Society for Epidemi-
16 ology.

17 Senator Laxalt. I stand corrected.

18 Senator Talmadge. What I suggest we do, I think that
19 we do have to look into this matter. I would suggest that
20 we put nothing in this bill, because we will have something
21 in conference, either the Crane amendment or the Rogers
22 amendment, and then when the Department of HEW makes their
23 recommendations in October, hopefully we expect to adjourn
24 some time in October, and we may well not get to holding
25 hearings until next January -- you are a member of our

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1 Subcommittee. We can hold hearings at that time and try
2 to devise a workable system that will not impede every
3 research program in America and every law enforcement agency,
4 in America that you heard all of these witnesses testify
5 about yesterday. That is what I think we ought to do.

6 Senator Laxalt. Respectfully, Senator Talmadge, I do
7 not come to the same conclusion, because the fact is that
8 this represents only a portion of the material and evidence
9 that would restrict research. Every one of these witnesses
10 indicated that somehow we have to achieve a balance.

11 Senator Talmadge. We have a right to privacy right now.
12 Mr. HEW, what is it? What are you doing about the right of
13 privacy?

14 Mr. Spaeth. We are abiding by the laws of the various
15 states. We are subject to the ethical considerations that
16 control doctors, providers, and institutions.

17 We have a series of laws in the Social Security Adminis-
18 tration and the Food and Drug Administration enabling and
19 thereafter regulations of enormous breadth and depth, self-
20 imposed, if you will, and we submit, Senator, that whereas
21 that there may be a risk in the future with increased use of
22 computers, increased participation, we think, and we under-
23 stand, that the record in terms of any abuses is an excellent
24 one, and we do agree that the Privacy Commission -- first the
25 creation of the Privacy Commission and now its recommendations,

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1 which we have had in hand for 60 days, are well-founded,
2 because we share those fears -- the ones you expressed
3 eloquently yesterday and I know the ones the Secretary shares.

4 So we operated under a mish-mash of laws, state and
5 Federal, and self-imposed regulations. There should be
6 order; there should be the balance drawn.

7 So, I simply repeat what I said yesterday, that the
8 Secretary is committed to move promptly, but also thoroughly
9 and with discrimination.

10 Senator Laxalt. If I can make one point -- it was well-
11 conducted yesterday and, I think, well-reasoned, except for
12 one thing. What came through that entire hearing was the
13 fact that today any one of you could have your private medical
14 records inspected by a Federal person through PSRO without
15 your consent.

16 That is the situation today. That, to me, is a very,
17 very dangerous situation.

18 Senator Nelson. What is that?

19 Senator Laxalt. At the present time, Gaylord, your
20 private medical records could be examined by a PSRO agent.
21 This, to me, presents a serious matter. Maybe it is not
22 serious at this time, but I bet you if you brought it to the
23 attention of the American public and let them know out there
24 by the millions that their private medical and psychiatric
25 records are now reachable by a Federal bureaucrat, you would

1 have all kinds of hell raised in this country.

2 Senator Nelson. Let me ask a question. The last time
3 you raised this question, we were waiting then, I believe,
4 for the recommendations of the Privacy Commission, as I
5 recall.

6 Senator Laxalt. The recommendations of the Privacy
7 Commission and regulations are going to come down October
8 13th. The point that is lost in all of this is that this
9 presupposes that they have access and control of that record.
10 Then we will have controls and restrict to breaching confiden-
11 tiality. It has nothing whatsoever to control the situation
12 in the first instance of their getting the records at all.

13 That is what this amendment seeks to protect, the right
14 of them to get the record at all from your doctor or mine in
15 the first instance, which is now reachable. It is now
16 reachable.

17 That is the understanding of the testimony I had yester-
18 day. This, to me, presents a very dangerous situation.

19 The Chairman. Let me comment on that. When you mention
20 PSRO, that gets into something that I have a little recollec-
21 tion about.

22 Senator Curtis. So do I.

23 The Chairman. We had a gentleman, Mr. Garcia Oley in
24 Louisiana, who went to work organizing people on the basis
25 that government, his starting point was against Medicaid

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1 when we started it, and Medicare. His contention was that
2 the government had no right to look at anybody's health
3 records.

4 In fact, the way I construed his position, we did not
5 even have a right to know if the guy got any treatment at
6 all. The idea was just to pay the bill and not ask any
7 questions.

8 Then, when we came up with PSRO, he really put his
9 crowd to work. He damn near split the American Medical
10 Association with his group. If I do say so, it looked to me
11 as if they were greatly exaggerating that this thing is all
12 about. They were declining to look at the reason that you
13 had to look at records to see whether comparing one operation
14 with another operation, I do not say an individual surgical
15 operation, but the way one hospital operates against how
16 another hospital operates.

17 If you are getting efficient use of your money, and
18 people are getting the right kind of treatment -- the man
19 raised as much furor about that matter as a fellow could raise
20 in Louisiana and when I ran for office, I got 75 percent of
21 the votes down there. I carried every parish in the entire
22 state, with him out there making all the noise that he could.

23 He found one of our Congressmen who supported his
24 position, John Rarick, and John Rarick made a big thing out
25 of how he was going to repeal the PSRO. He was the hero of

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1 that same group, and John Rarick got defeated. He did not
2 even get into the general election. He got defeated in the
3 primary. He did not even make the run-off, and he subsequently
4 went out there and offered himself again this last time as
5 an independent. He did one great thing; he provided one great
6 service -- in the previous general election, he split off
7 enough Republican votes that the Republicans did not quite
8 make it.

9 Then of course, after we had all of that scandal down
10 there, then Rarick this time stayed out of the race and the
11 Democratic got in as a third-party candidate. So at the time,
12 the Republican did make it.

13 Wallace Bennett was a sponsor of the PSRO, a ranking
14 member of this Committee and a great Senator, and when Rarick
15 got beat, John Wallace Bennett said, that shows you Rarick
16 tried to repeal the PSRO and the public would not stand for
17 it.

18 I heard an awful lot of that. It seems to me as though
19 it is overdone.

20 Why do you not work with Senator Talmadge, the way he
21 is discussing, and see if you fellows cannot get together?

22 I do not think that Senator Talmadge is an all-out
23 Socialist. I think he is one who can see both sides of the
24 argument.

25 If you and Herman Talmadge cannot get together, I would

1 say that there is no hope for your side of the argument.

2 If you two will work together, Senator Laxalt --

3 Senator Talmadge. I will hold hearings on the President's
4 recommendations.

5 Senator Laxalt. Would you consider our portrayal of
6 this thing here? What concerns me about this, this is a
7 difficult issue. The House addressed itself to it.

8 Senator Talmadge. Every witness, as testified, it
9 would stymie everything in the field of health. The communi-
10 cable disease people from Atlanta came up here. They cannot
11 even check the records of Legionnaire's disease up there in
12 Philadelphia.

13 The National Institute of Health says that it will stop
14 them in their tracks on their research on cancer. The
15 Department of Defense, the General from the Air Force, said
16 that he could not even investigate air crashes, or investigate
17 the condition of the men to go into combat if that amendment
18 becomes law. That is how serious it is.

19 What we have to do is balance the equities of society
20 with the rights of the individual, and we cannot do it
21 hurriedly and without adequate notice and hearings and
22 decisions on it.

23 I yield to Senator Dole.

24 Senator Dole. I think there is a realization that
25 probably the Crane amendment is probably too restrictive.

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1 There was an effort by Dave Satterfield -- I think a very
2 reasonable effort -- to try to compromise the problems and
3 that, too, was rejected I think by most witnesses yesterday.

4 Senator Talmadge. Every witness yesterday rejected it.
5 Not a single witness appeared on the other side of this
6 issue.

7 Senator Dole. I think what Paul is concerned about,
8 why could we not make the Satterfield amendment effective
9 May 1 of next year and put the pressure on the other side?

10 Senator Talmadge. What I think we should do is do
11 nothing. You are going to have either something in Satter-
12 field -- you are either going to have the Rogers amendment
13 or Commerce Committee, a bill we have to go to conference,
14 or if Ways and Means prevails, the Satterfield amendment.
15 One or the other of them is going to be in conference.

16 I think what we must do when we go to conference is
17 try to make a decision. As far as I am concerned, this
18 issue has been around for years. The country is not going
19 to die between now and January.

20 I think when we make a decision on something this impor-
21 tant that we ought not to do it hurriedly or off the top of
22 our heads.

23 You were over there yesterday; you heard the testimony.
24 Any man with an open mind -- they had an absolutely irrefutable
25 argument.

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1 The Chairman. What gets me about all this thing, I do
2 not know who is complaining. I went all through this issue
3 in Louisiana --

4 Senator Talmadge. I have not had a single letter.

5 The Chairman. Here is Garcia Oley raising all the hell
6 and you cannot even know if a man got any treatment at all
7 when you are paying for it. I have yet to see the first
8 person show up and complain about the matter.

9 Frankly, it reminds me of the situation where this
10 relative of mine -- he was my family doctor; he was the head
11 of the State Medical Society -- got sick, and he went down
12 to the hospital and nearly died. They put this oxygen tent
13 over him. There was some hope because he was still breathing
14 but it looked like he was going to die any second.

15 Finally, after about five days it occurred to somebody
16 that nobody had thought to turn the oxygen on inside the
17 oxygen tent. When he got back, his wife told me -- she
18 explained what had happened and she said, that is the kind
19 of thing we do not like to talk about, keep it on the QT.
20 We do not like to let it be known that things like this
21 happen in this hospital, but you and I know that now and
22 again they do.

23 I gained the impression that is the kind of thing that
24 Garcia and his crowd are raising hell about and
25 bring it on the behalf of patients who are not complaining,

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1 because somebody there in the hospital did
2 not turn the blame oxygen tent on.

3 You have a point about the right of privacy, but it
4 just seems to me that to take the procedure, hold a hearing
5 and see what the Department recommends and try to protect
6 everybody's rights would be the best way to handle it.

7 To put it on here, in my judgment, is to yield to a
8 clamor about some doctors who do not want you to know what
9 they are up to, or might be complaining, when they do not
10 have that much basis for complaining.

11 I have a friend of mine who is a general practitioner,
12 and a good one, who told me that half of his complaints is
13 by general practitioners that like to go out and do some
14 surgery from time to time and do not want anybody looking
15 over their shoulder to see if they are qualified to do it.

16 I do not know whether it is right or not. All I know
17 is there are so many different angles, so many different
18 people that have one reason or another for not having the
19 public know what they are up to, that those are the ones
20 that raise more complaints than the patients.

21 Can anybody tell me what patients are in here complaining
22 about the fact that the government can expect their medical
23 records for the purposes --

24 Senator Laxalt. They are not aware of it. If the 28
25 women in New York who had their abortions revealed, they will

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1 tell you in a moment that they did not like it. That is
2 precisely what happened.

3 The Chairman. Maybe so. If you wanted to try to keep
4 those women from dying because they had abortions, you might
5 have to look at some of those records, too.

6 To say the least, there have got to be two sides of that
7 argument, and I would think we could wait until we get the
8 Department's recommendations.

9 Did you not say, Senator Talmadge, that you would be
10 glad to hold a hearing and work something out?

11 Senator Talmadge. Yes.

12 The Chairman. That is the best answer.


13 Senator Laxalt. I get the message, Mr. Chairman.

14 Senator Nelson. I just wanted to ask who that relative
15 was. That is the first time I heard about that relative.
16 You have the biggest family in the world.

17 The Chairman. It was my cousin Norbert.

18 Mr. Constantine. We have some minor changes.

19 Senator Laxalt. Let me make this closing observation
20 so that this is left in context.



21 As a result of the hearings yesterday I became convinced
22 too that the so-called Crane amendment and its absolute
23 prohibitions presented problems. It did, particularly in the
24 case of the serious epidemics of the type that we had in the
25 Legionnaire's disease and some middle ground had to be found.

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I would hope, Senator Talmadge, when we discuss this, and I look forward to working closely with you, that we can arrive at some middle ground so that these rights are protected. It is essential that we do it.

Senator Talmadge. We have to balance the right of the public which is involved here with the rights of the individual. It is difficult to do.

We are spending billions and billions of dollars of public funds on Medicare and Medicaid. In addition to that, we have the National Institutes of Health involved in all sorts of research programs. You heard what they had to say. You heard what the Department of Defense had to say.

You saw the letter from the Department of Justice that it will just stop them cold in their tracks in investigating drug peddling.

You have to come up with some reasonable balance between protecting the rights and privacy as best we can, and also the right of the public involved to continue in cancer research and to reduce the cost of these programs. At the minimum, there is a balance there that can be met with some degree of objectivity, in my judgment, when we get the results of this study that has already been made, and these recommendations from the Department that will be sent to us in less than a month.

The Chairman. I had promised Senator Cranston that I

1 would see that two amendments that he had proposed would be
2 considered on this bill.

3 Would you tell us, Mike, what the problem is with regard
4 to those two amendments?

5 Mr. Constantine. Senator Cranston was proposing again
6 an amendment that this Committee adopted in 1972, '73 and
7 '75 which the House has consistently promised to study and
8 work on. That is to permit where one spouse -- this is the
9 bulk of the amendment -- where one spouse is on Medicare and
10 over 65 and the other spouse is at age 60, but between age
11 60 and 64, to let the wife or husband buy into Medicare at
12 cost. It is a no-cost approach.

13 But where the husband has a wife who is under 65 and
14 he retires and they have a great deal of difficulty getting
15 adequate private coverage at that point because of that age,
16 and to permit those buying at cost for those two or three
17 years until they were eligible, until they reached 65 or were
18 eligible in their own right.

19 Similarly, the same individual is over 60 -- the
20 Committee approved it in 1972 and '73. As I say, at the
21 end of 1975, Ways and Means was rushed at the end of the
22 summer, and promised to study it and be sympathetic to it.

23 That is the Cranston amendment. It is a no-cost amend-
24 ment, but it does permit the spouse of Medicare eligibles to
25

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buy in at cost.

The Chairman. Is there objection? Without objection, agreed.

Senator Nelson. We have not agreed to a no-cost thing for ages.

The Chairman. He said he had two amendments?

Mr. Constantine. The other one was a very minor veterans amendment to permit the Medicare funds to compensate a VA hospital where they thought they were covered for veterans benefits, but he was not, but in fact he was otherwise eligible under Medicare, and the VA provided the benefits, so the family was left holding the bag.

This was to permit Medicare to compensate VA. The Committee previously approved it. It is essentially one veteran in California.

The Chairman. Is there any objection?

Without any objection, agreed.

Senator Dole. Is he Republican?

Senator Nelson. Not now.

Mr. Constantine. We have some minor changes. One amendment the Committee had approved was the consolidated amendment, the administrative responsibility for all the Social Security health care financing program, and the Health Care Financing Administration, rather dividing it in the health side of the Department, which this Committee has no



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jurisdiction over. It was in direct response to some fragmentation of the Department, which we understand has now been corrected.

We would recommend that that provision be deleted.

The Chairman. Without objection, agreed.

Mr. Constantine. The second one is a modification, a technical modification of Section 322, which authorizes demonstrations. It makes clear that includes demonstrations of approved techniques to deal with fraud and abuse.

The Department wants to make a grant to New York State, to the Deputy Attorney General and Special Prosecutor doing the best work in the country investigating fraud, to go into hospitals. They have a lot of concrete information on hospital fraud, but they cannot approve it technically.

This would permit them to go on with the demonstration. New York is training in that area, the Special Prosecutor is training, people from other states.

The Chairman. Without objection, agreed.

Mr. Constantine. The third part is the Administration wants on intermediaries -- the House bill amends present law substantially. It establishes an elaborate process.

We have recommended that you take the Interstate and Foreign Commerce, the House provision. We would not suggest that you just delete the House provision and stick with present law, whereby we work with our intermediaries. That is

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much simpler to work with.

The Chairman. Without objection, agreed.

Mr. Constantine. That is all we had.

The Chairman. All in favor of reporting the bill, say aye?

(A chorus of ayes.)

The Chairman. Opposed, no?

(No response)

The Chairman. The ayes have it.

Mr. Stern. Mr. Chairman, the next item concerns foster care and adoptions.

The Committees action was somewhat different in a number of areas from what the Administration had recommended and Senator Cranston had been developing a possible substitute amendment.

We discussed this with his staff at some length and would like to suggest a few things for the Committee's consideration to approve these, because we understand that Senator Cranston would not offer a substitute amendment.

The two major areas are as follows: first of all, is there a need to put a ceiling on Federal funds for foster care beginning in 1978? Their concern is that there are some states with disproportionately small foster care programs, so the recommendation is to deal with that in two ways: first of all, by increasing the ceiling for 1978 to 20 percent



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1 above the 1977 level rather than 10 percent; also, to have
2 an alternative ceiling based on the child population in each
3 state. It would simply take the amount of the state's share
4 of \$100 million, based on the population under age 21 in
5 each state. If that works out to be more than they would
6 get under the formula, then they could have that alternative
7 ceiling.

8 Those are meant to preserve, but at the same time
9 accommodate to some extent, the states that have disproportion-
10 ately small programs.

11 The other major issue is in the area of child welfare
12 services. The Administration proposed that the \$266 million
13 now authorized be converted into an entitlement program and
14 that there be a number of requirements for what the funds
15 would be used for.

16 The Committee rejected the entitlement approach, but it
17 also rejected the other purposes for which it could be used.

18 This suggestion here would say that you would create
19 sort of a sub-section within the child welfare programs which
20 deals with an inventory of the children who are in foster
21 care and developing a case review system, and that that could
22 get separate funding within the total \$266 million that you
23 authorized.

24 That way, it preserves the Administration's hope of
25 being able to put money into a particular area for developing

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1 a better control of foster care. At the same time, it does
2 not really require the states to do anything because it
3 simply makes money available for this program if they want
4 to use it. If they do not, they do not have to get into this
5 new program.

6 There is not much leverage here. They can do it if they
7 want to do it.

8 The other elements -- these are smaller issues -- one
9 is to clarify that you allow the kind of items that you cover
10 in family foster care, home foster care, for an institution
11 in defining what maintenance payments are. Similarly, they
12 want to be sure that you cover the kind of situation where
13 a child, for example, a facility to help children who have
14 run away from home.

15 The Committee bill, following the language in the original
16 Administration bill, by eliminating cases where there are
17 delinquent children, they are concerned it might be a little
18 too restrictive in the area of child welfare services. There
19 would be an authority for the Secretary of HEW, if he deems
20 it appropriate, to deal directly with recognized inter-govern-
21 mental entities in adoption assistance.

22 You would make explicit that certain one-time costs
23 associated with adoption proceedings could be covered under
24 the Child Welfare Services Program.

25 I think that is about it. If the Committee could agree



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1 with those, I would say that those are not significantly
2 different philosophically from what the Committee agreed to
3 earlier, but they do move in the direction of the original
4 Administration proposal.

5 Senator Moynihan. Mr. Chairman, the staff has done a
6 fine job here. We are very much in their debt. These are
7 matters that concern the Administration and Senator Cranston.
8 They have been worked out.

9 May I say, this is a good proposal. It is particularly
10 good -- I cannot forbear to note -- it is particularly good
11 for Georgia, Hawaii, Missouri, Nebraska, Texas and Wyoming.

12 The Chairman. All in favor, say aye.

13 (A chorus of ayes.)

14 The Chairman. Opposed, no?

15 (No response)

16 The Chairman. The ayes have it.

17 Mr. Stern. The other item has to do with some matters
18 that you wanted to go into in child support.

19 The Chairman. Let me touch on a couple -- you have them
20 there, I take it.

21 I attended a conference of these people working on child
22 support for those states, and it seems to the Committee that
23 there are things that ought to be done to help child support,
24 and they are listed here. Most of them are noncontroversial.

25 One of them suggested that we ought to provide matching

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1 for the state courts and for the work of the state courts
2 and the state law enforcement officials. The idea there,
3 when they try to get some of these judges to hear these
4 cases of child support, the judges put them off by saying,
5 well, I have these cases to consider, and they ought to take
6 precedent over child support cases.

7 It seems to me, these people who have worked in the
8 area -- if we were to provide matching to help pay the court
9 costs of the court's considering it, considering these matters,
10 that would help to get the attention of the courts to look at
11 these child support cases, to give more attention than you
12 give otherwise since that is a part of the cost of child
13 support in the program of saving money.

14 As a whole, we estimate saving about \$1 billion right
15 now, is that not right?

16 Mr. Galvin. I would say it was \$300 million.

17 The Chairman. Federal and state?

18 Mr. Galvin. Yes.

19 The Chairman. It is a big savings. I would urge that
20 we agree to that, if there is no objection.

21 Senator Moynihan. Mr. Chairman, could I say, sir, I
22 certainly think that that is a good idea, in the matching.
23 Mr. Galvin has come forward and helped us with these amend-
24 ments and we have a problem -- by "we," I should say "me" --
25 our Subcommittee, in thinking about this.



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We have not been able to hear from the Administration on this, and IRS is involved, and Treasury is involved.

While I think this matching proposal, we could go ahead in complete confidence that these people can do what they want to do, with respect to the others, if you want my view, it is we need to hold a day's hearing on these, and we need to find if the agencies that will be given these responsibilities want them and if they do not want them, I think it comes a little bit late in the cycle, except for the matter of matching.

The Committee may not share this view, but I wanted you to know what my view is.

The Chairman. There is one of these items here. It is hardly anything more than a clarification of what we intended all the time, and I am trying -- which one is that, Mr. Galvin, that states what we think we intended all the time?

Mr. Galvin. The one for collections. The way HEW regulations interpret our distribution formulas on the monies received. It is on the top of page 3.

The Chairman. Page 3.

Mr. Galvin. It involves not only the three months, but since then, HEW has made me aware of the fact that it involves their regular distribution formulas on their regular collections.

We have always interpreted it that it is the current



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1 month. HEW, under that regulation, has interpreted it as
2 the current month and the balance retained.

3 There are now challenges in Mississippi and Georgia,
4 and our recommendation -- the recommendation of the ERISA
5 group, that the law be clarified over HEW interpretation.
6 HEW has sent me some proposed amendments, changes to the
7 law.

8 The Chairman. What you are seeking to do here, is that
9 what HEW wants?

10 Mr. Galvin. This is what HEW would like to have.

11 Senator Moynihan. It is my understanding -- and I will
12 stand corrected -- that item number 7 would also be ready.

13 The Chairman. On page 3?

14 Mr. Galvin. On the other items, I have talked with HEW.
15 I talked today with the Director of Child Support, Mr. Card-
16 well. He said on all of them, the only one that he had a
17 question about, he would like to have the matching for the
18 courts and law enforcement officials, that it be, in addition.
19 In other words, that there would not be a maintenance of
20 effort provision put in, then he would have no problem with
21 it.

22 The Chairman. That is the one you are willing to agree
23 to, the one about maintenance of effort?

24 Senator Moynihan. Yes, sir. Mr. Chairman, I am willing
25 to agree to any of them if the Head of the Child Services said

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1 that this is okay with him, take them all. We are trying
2 to protect that bureaucracy. If they do not have the nerve
3 to come up here and say they are unhappy, I could not care
4 less at this point.

5 What is that man's name?

6 Mr. Galvin. Cardwell. I have also talked to Lou Hayes,
7 who is Deputy Director.

8 Senator Moynihan. Enact them all. I do not care.

9 Mr. Galvin. I have also talked to the two provisions
10 reflecting the Internal Revenue provision, and I talked to
11 the Internal Revenue Service on those two. One of them is
12 on the top of page 2, which is the collection by IRS. It
13 extends the collection from just AFDC --

14 Senator Moynihan. Mr. Galvin, I am sure you have. May
15 I say, in respect to this, I think I would like to here from
16 the IRS.

17 Mr. Galvin. I have them up here.

18 Senator Moynihan. I would like to have them come to
19 our Committee. I think they could show us the courtesy of
20 coming a day ahead.

21 Senator Dole. If the Senator would yield, we have not
22 seen any of these. I understand they were delivered to us
23 and made available to us yesterday, and we have not had a
24 chance to reflect on any of them. They may all be perfect,
25 but if we have to adopt them, we ought to have a chance to



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1 study them.

2 Senator Moynihan. I can guarantee you that the prohibi-
3 tion on matching is very much the will of this Committee.
4 I can tell you -- I think this should be done. On these
5 others, they are new to me, too.

6 The Chairman. I would like to discuss one or two of
7 them with you briefly that to me make nothing but good sense.

8 Senator Nelson. May I ask one question?

9 I have an appointment. Are you going back to Social
10 Security at all today, or are we going to finish it on
11 Monday?

12 The Chairman. We are going to finally vote it out on
13 Monday, but I would like to have you also vote on this.

14 Senator Nelson. All of 7200?

15 The Chairman. I would like to vote on such part of this
16 as the Committee feels like voting on.

17 Let me just explain what this second item is, the
18 determination of the refusal to cooperate. We said, by law,
19 that every effort should be made to retain the cooperation
20 of the mother in obtaining the identity of the father, and
21 we recognized that she could say that she does not know who
22 the father is.

23 There are ways, if she wants to, to decline to identify
24 the father and get away with it, but some of these excuses --

25 Senator Nelson. I have to leave.

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1 The Chairman. Some of these, for a mother to refuse
 2 to identify the father of that child are pretty lame excuses.
 3 Let us assume that father is fully able to support that child,
 4 who ought to be supporting that child. Frankly, in some
 5 cases, he is actually really spending the night right in
 6 that home.

7 But let us assume that he is not living there, but he is
 8 fully capable of supporting the child. These mothers will
 9 tell us, they will say, if I tell you, he is going to come
 10 beat me up.

11 Typical of that situation is some little social worker
 12 will say, if you are going to say he might beat you up, that
 13 is adequate excuse for not identifying who the father is.
 14 We have a unit that we established a year or two ago.
 15 Secretary Califano applauds this. They are doing a good job.

16 These are people that have the duty of trying to make
 17 that guy come up with the dough, and what we are suggesting
 18 here is that the decision that that would be an adequate
 19 excuse for not cooperating and telling us who the father is
 20 would not be decided by this little social worker, with
 21 deference to them.

22 They are notoriously on the side of the claimant, and
 23 instead that that decision be made by the people who have this
 24 tough job of trying to get that father to contribute, which
 25 is what we call the IV-D statute, the Child Support Act.

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1 It is those people, for example, the people in that
2 unit who have the lawyers to go sue these people. They say,
3 if you are afraid of him, we will get that man and put him
4 under court order, under a peace bond. If he comes and beats
5 you up, he will go to jail for contempt.

6 This would be the case of the people in the same
7 department, the people who know what it is to be lied to and
8 who are suspicious of that thing, taking a look and deciding
9 whether you think that person is cooperating.

10 Let's take it that she may tell you, I do not know who
11 the father is. I honestly do not know. But on the other
12 hand, if she is saying that yes, she knows who he is, but she
13 is afraid she is going to get beat up -- you see, it is a case
14 of having your cake and eating it to. She can get the welfare
15 money saying she is not going to identify the papa, and at
16 some subsequent point in life, she can come back in here and
17 have it the other way around saying, oh, yes, I know who it
18 is. The reason I did not say it at that time, I was afraid
19 I would be beat up.

20 A person must make a decision one way or the other, and
21 I think that this would really help to make that program
22 work.

23 Senator Dole. What section are you talking about?

24 The Chairman. Determination of good cause of refusal
25 to cooperate.

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Senator Dole. HEW has agreed with this?

Mr. Galvin. I told you the few people I talked to -- I talked to Bruce Cardwell and Lou Hayes on the matter.

Senator Dole. Is there an HEW representative here?

VOICE: First of all, when I spoke to Mr. Cardwell earlier, I got a different reading on these. I do not mean to challenge Mr. Galvin. I think we would like to straighten that out a little bit, on the issue of the IV-D agency that because we feel rather strongly that since this is a point of eligibility that it is a matter for the eligibility worker to determine that it is a IV-A; the social worker you described; the IV-D workers, are already in the business of being able to help check up if there has been a good cause claim proposed and could help with an investigation, and that would remain the same.

We would like to keep that point of eligibility determination with the eligibility worker and it belongs rightfully with the IV-A worker.

In addition, there are regulations, final regulations, that deal with this that are coming out, I think this next week, which deal with precisely these issues. I think we would prefer to see that looked at first.

The Chairman. My impression is that your people -- I am not talking about Secretary Califano -- my impression is that your people over there would have preferred never to



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have the child support agency to begin with. If you had one, you would have preferred not to do anything, and your people recommended to the fellow who just left over there-- what is that fellow's name? Mr. Carlson -- who left over there that they even cut it out by way of economy.

Here is an agency that is making a lot more money than it is spending, that the funds of that agency be cut. Your people proposed that to him.

My impression is that if you got no more than one or two top people who know anything about this program of making these fathers support the children, anything, any part of it.

VOICE: I will not speak for the previous Administration. I know that Secretary Califano has been very supportive of the program.

The Chairman. I am talking about the people who were there when he came and who are still there, including you, as far as I am concerned, it is whatever the Committee wants to do.

Mr. Galvin. I would like to clarify this issue. This is not an eligibility decision. If the person claims they have good cause to cooperate, it is a finding on whether or not there is good cause.

That person is not ineligible for finding it is or is not good cause. The eligibility decision comes there, and

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after a finding that the recipient or the applicant was wrong and it is found that it is not good cause, then if they refuse to cooperate, it becomes the eligibility decision that is, the decision of the IV-H.

This does not change the decision of the agency relating to eligibility. It relates to a finding of good cause, only.

The Chairman. What does the Committee want to do about it? If you do want to postpone it, it is all right.

Senator Moynihan. Mr. Chairman, may I say that Mr. Califano is not in charge of this Department yet. People are speaking for him in five different voices.

I think, as a courtesy to him, he would very likely be very upset to find this. If we are going to have another day of these hearings, I would just go to Mr. Califano. I want to say to Mr. Califano, do you want it, or do you want out of it? Would you speak with one voice and pay just enough attention to us? If you do not want to be Secretary of Welfare, say so.

I just think we get the most varied and confused allusions, references, that it is not an orderly way for him to conduct his visit. It is time that he got on top of his Department.

The Chairman. I do not know of any objection at all to the first point that we have here about the matching.

Senator Moynihan. No.

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The Chairman. I do not know of any objection to this point on page 3 about collecting from AFDC families after the grant is terminated.

Senator Moynihan. I think there would be objection from Senators Nelson, Hathaway and Haskell. I vote with you.

The Chairman. All in favor, say aye?

(A chorus of ayes.)

The Chairman. Opposed, no?

(No response)

The Chairman. The ayes have it.

Senator Danforth. Mr. Chairman, I would like to just return briefly to item 4. It has been called to my attention this is number D -- the adoption and foster care.

During my hearings on this, a question was raised by Senator Packwood and by me as to the earmarking of the funds for tracking these foster care children, and it was the thought at the time -- I am a little bit vague on it now -- it was our thought at the time that the bill at that point was a little bit on the complex side and that it would be better to transform the additional money, which is described on page 2 of this program, as simply as a grant to the states as a part of the total program rather than earmarking it for a particular tracking program which was thought desirable by HEW.

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2 My understanding is from the way this is written that
3 it is, in fact, earmarked.

4 Mr. Stern. The difference is, in the Administration
5 proposal, they propose that the entire \$266 million be an
6 entitlement for states. In order to get the money, you would
7 have to do these various things.

8 This suggestion does represent an earmarking, but it
9 represents, I think, a far greater measure of choice for the
10 state in that in order to get funds for doing these particular
11 things, you have to be willing to do those particular things,
12 rather than in order to get funds for all the child welfare
13 services programs, you have to do these things.

14 If a state decides they did not want to take this kind of
15 inventory, they did not want to kind of set up this case
16 review system, they could say, do not bother to give us the
17 money for that program. They would still get their appropri-
18 ation under the Child Welfare Services Program, other than
19 for this particular segment.

20 This is kind of a compromise approach between having an
21 entitlement which gives you a fair amount of leverage with
22 the state and making a requirement, or having a special
23 earmarked program and if you do not wish to participate in
24 it, you do not have to.

25 Senator Dole. How does it operate? If you do not want
to participate, you do not have to -- what are the

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1 consequences?

2 Mr. Stern. You do not get any money for this part of
3 the program, but the money that you otherwise would get for
4 the Child Welfare Services Program, you get.

5 Senator Dole. Do you get some of the additional money,
6 some of the -- whatever it is now? Do you get some of the
7 new funds?

8 Mr. Stern. Say the Congress appropriates \$100 million
9 for Child Welfare Services and \$50 million for this particular
10 program. You would not get any of the \$50 million; you would
11 get your share of the \$100 million.

12 That was the purpose of splitting off the two, and in
13 the Administration approach, they would entitle the state to
14 their share of the \$266 million. In order to get it, they
15 would have to meet the requirements.

16 It was a lot more money involved in an entitlement
17 program, much greater leverage to make that requirement.

18 This is about as little requirement as you can have.
19 If you do not want to participate in this part of the
20 program, you just do not participate.

21 Senator Danforth. What do you think about this? Do
22 you think that this is reasonable?

23 Basically, as you know, what I would rather do is
24 just create a program and let the states administer it
25 rather than have this kind of carrot approach, particularly

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1 on something that is procedural.

2 Senator Moynihan. You are up against it, if I may
3 speak clearly. The bureaucracy is dead set against you.
4 If you do not do it that way, they will proclaim you a
5 child molester. It is just as simple as that.

6 Senator Dole. There is nothing preventing earmarking
7 all of the additional money?

8 Mr. Stern. That is right, but it goes through the
9 appropriations process. It depends on what the Congress
10 wants to do.

11 Senator Dole. Put a 50 percent lid on it; they can
12 earmark up to 50 percent.

13 Mr. Stern. If you want to actually put a separate
14 ceiling on it, you can do that, too. Up to 50 percent.

15 Senator Dole. Of the new money can be earmarked, and
16 the remainder can be used as the state desires.

17 Mr. Stern. We could do that.

18 Senator Moynihan. That could be a solution. How does
19 that sound to you?

20 Senator Danforth. Fine.

21 Senator Moynihan: Mr. Chairman?

22 The Chairman. You understand it better than I do. If
23 you are for it, I will go along with you on it.

24 Without objection, agreed.

25 Mr. Stern. The first \$57 million appropriated goes to

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Child Welfare Services. Any amount that is appropriated above that, you can earmark up to half, but not more than half of it can be earmarked of this program.

Senator Moynihan. I think that is a wise choice.

The Chairman. Without objection, agreed.

Senator Matsunaga. Mr. Chairman --

The Chairman. Is that all on that bill?

Mr. Stern. That ends 7200, and coming back Monday morning and looking at the finished product.

Senator Matsunaga. There is an urgent matter that needs to be taken up and I need some counselling as to where it would fit in, possibly with H.R. 5675, which we tentatively approved, subject to amendment.

It is the question of overseas earned income exclusion. As you know, we postponed the date of effectiveness one year in order to avoid retroactivity, and now we face the problem of thousands of Americans working overseas who want to come back because of the heavy tax. There is no advantage to working overseas.

And with the balance of payments being what it is, the great relations with other countries, we would lose the sales overseas, and while there are many arguments that can be made for postponing it for another year, if we postpone it for another year so that we can study this -- and, as I understand it, the Treasury is in support of postponement, and of course



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the Administration will be offering its tax reform measure later this year or early next year -- at that time we can study it again and GAO, as I understand it, is also studying the problem of American jobs being lost overseas and what its effect would be.

The Chairman. Let me suggest to you that that amendment is more appropriate on some tax bill or revenue-raising bill rather than Social Security, just to keep these bills from getting completely out where somebody puts everything on it.

If you cannot find one more relevant, put it on the energy bill rather than Social Security.

Senator Matsunaga. "I thought it would be on tax and loan accounts?"

Mr. Stern. The trouble is it also involves the Banking Committee and two Committees of the House. You would do better by taking a minor tariff bill or the energy bill, something that only involves Ways and Means.

The Chairman. One of those. I would suggest that you think about it over the week-end and decide whether it is better. If you put it on a minor tariff bill, they might stop that bill from going through. You may have to put it on the energy bill, if you have to.

Talk to me about it at an appropriate time, and I think I can help you.

Senator Matsunaga. May we have the assistance of the

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1 staff in this regard, then, and give us the appropriate
2 vehicle?

3 The Chairman. Can we all agree, those of us who are
4 here, that on an appropriate bill that we would favor
5 extending that Section 911 -- you know what we are talking
6 about.

7 Senator Dole. We ought to add the sick pay exclusion,
8 too.

9 The Chairman. On the appropriate vehicle, yes.


10 Senator Dole. Of course, it may take a big horse before
11 we finish -- too many riders.

12 Senator Matsunaga. This is rather urgent, Mr. Chairman.
13 Unless we act, we are going to have thousands of overseas
14 workers come back here and add to the unemployment rolls.

15 The Chairman. I understand. At an appropriate time,
16 and on the right vehicle, which this is not, we will try to
17 help you with it.

18 Senator Matsunaga. I so move, with no objection.

19 Senator Moynihan. On the quality control measures -- I
20 think there have been many proposals in this matter.



21 Senator Talmadge raised these proposals. There was not
22 any staff document available at the time. We talked about
23 it. We reached general agreement, and I am very much in favor
24 of those proposals, but I think that we need to take some
25 pains in an intricate and controversial field to make sure

1 that the actual legislative language does not make life
2 needlessly difficult for the agency to have to carry out
3 these intentions.

4 I would appreciate the Committee's agreement with the
5 general proposition that the draftsmen should be instructed
6 to see that our bill remains at the level of generality of
7 our press release, when we describe what we agreed to do.

8 I think that this would be helpful. I think Mr. Stern
9 would appreciate, with reasonableness, that idea.

10 The Chairman. Without objection, agreed.

11 What else do we have?

12 Mr. Stern. In the press release, may we say the
13 Committee has agreed to Senator Matsunaga's amendment sub-
14 stantively, without saying what it is going to be on?

15 The Chairman. That at an appropriate time and on an
16 appropriate bill, the Committee agrees that Section 911 should
17 be considered, and that we favor it.

18 What else do we have to decide here?

19 Mr. Stern. You have completed everything on the agenda.

20 Senator Moynihan. Mr. Chairman, if we are going to
21 hold over 7200 until Monday, I am sorry to say that I will
22 not be able to be here until noon on Monday. Is that
23 impossible?

24 Mr. Stern. You have another sessions scheduled. It
25 is on the energy tax bill. I assume you were just going to

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take a few minutes out and look at this, that with general approval, that this was a series of tax increases you approved, everything, Social Security and all of these other things would be a part of H.R. 7200.

The Chairman. We should discuss this briefly. There is a key point, a crucial item that we have not discussed.

It is the fact that the Department would like for us to act on the Social Security tax separate from the Moynihan amendment, or separate from some of the other things that we have done.

My reaction is, usually we will pass the Social Security bill once a year, or sometimes once a Congress, but when we do, we put the Social Security amendments that we want on there. We do not send them down piecemeal, and it is fairly clear to me why the Department would like to keep it separate. They would like to take the money in the tax increases and reserve the right to ask the President to veto what we do in other respects.

That is all fine from their point of view. From our point of view, that is not too good an idea.

If the President tells us what he would like to do, what we would like, and we will do a few things we would like. I can understand. If I were President, I would like to sign the bill I wanted and then all of these bills that the Hill sent me, I would say, that is too bad fellows. After

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1 giving your ideas most sympathetic consideration, I have
2 decided that all things considered, there are things I have
3 to veto the bill. We will talk about it next year.

4 Of course, the result is what the President would like,
5 we have done the best we could for him and our part goes
6 down the drain.

7 The way we have traditionally done business has been
8 that we would put the part that they were asking for insofar
9 as we thought we could go along with them on the same bill
10 where we are asking the President to go along with us on
11 some things.

12 I just think -- my reaction is no. I would suggest that
13 we send him one big package, including our ideas as well as
14 their ideas. We have gone along with them on a lot of
15 things, not everything, but any means. But this bill gives
16 them more revenue than it ever had in one bill in a long,
17 long time. When was the last time -- when did we pass a bill
18 that gave the Department as much revenue as we do with this
19 bill here?

20 Mr. Stern. It is a little more customary in Social
21 Security bills to be a little more heavy on benefits than
22 this bill is. This is a pretty big money raiser.

23 The Chairman. This bill raises more money and provides
24 less benefits than any bill we have sent in many years.

25 It seems to me that if we are going to march up and

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vote for this, we ought to be able to say what some of this money is going to be spent for.

That would be my inclination, but we can vote on it when everybody is here Monday.

How do you want to be voted on that, Senator Moynihan, in case we bring it up before you come back?

Senator Moynihan. I will have to give it over the week-end powerful consideration, but right now, an answer of yes.

The Chairman. Thank you. We will look forward to seeing you Monday.

(Thereupon, at 4:15 p.m., the Committee recessed to reconvene Monday, September 19, 1977.)

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