

EXECUTIVE SESSION

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2
3 THURSDAY, JULY 28, 1977
4

5 United States Senate,
6 Committee on Finance,
7 Washington, D.C.

8 The Committee met, pursuant to notice, at 10:25 a.m.
9 in room 2221, Dirksen Senate Office Building, Hon. Russell
10 B. Long (Chairman of the Committee) presiding.

11 Present: Senators Long, Talmadge, Ribicoff, Nelson, Bentsen,
12 Hathaway, Moynihan, Curtis, Hansen, Dole, Packwood, Roth, Lassalt, Danforth.

13 The Chairman: Mr. Stern where do we stand with regard
14 to the legislation. How do you suggest we go about getting
15 from here to there?

16 Mr. Stern. Yesterday you began on H.R. 7200, public
17 assistance and social service amendments, contained in the
18 staff document dated July 26th, public assistance and
19 social service amendments, and you had gone through in a
20 general way the part that deals with adoptions, foster care,
21 child welfare services, child care and other social services.

22 You made three decisions that I know of explicitly,
23 and I think there was a sort of a tentative agreement on the
24 rest of what you were going to do in that area.

25 The Chairman. Let me ask Senator Moynihan to move up

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1 near the head of the table, because he is Chairman of that
2 subcommittee, and he can help us here.

3 Go ahead.

4 Mr. Stern. The three decisions I know you made specifi-
5 cally were, number one, that the amount of an adoption subsidy
6 per month cannot exceed the amount that the state otherwise
7 would pay if the child were in a foster care home; that the
8 matching rate for foster care in institutions caring for more
9 than 25 children would be reduced by 20 percent beginning in
10 fiscal year 1980; and the child welfare services program,
11 which is now a separate grant program under Title IV, part
12 B of the Social Security Act would end in the fiscal year
13 beginning 1979 and become a part of the Title XX social
14 services grant program.

15 Senator Talmadge. Mr. Chairman, before we proceed
16 further, I suggest we consider -- I have heard from my state
17 people and Association of Counties that they would prefer
18 that it remain a separate proposal.

19 Senator Hansen. I hear the same thing.

20 Senator Hathaway. I agree.

21 Senator Talmadge. I move that it be reconsidered and we
22 retain it as a separate function.

23 Senator Packwood. Mr. Chairman?

24 The Chairman. Senator Packwood.

25 Senator Packwood. I understand the pressures. I have



1 had the same from Oregon. I am reluctant to change because
2 of the states have not got the capacity, courage or discretion
3 to stand up to different pressures, that they have not the
4 capacity to take care of child welfare themselves with the
5 money we give them, I am not sure they can be trusted with
6 much of anything, or should be.

7 I also understand the pressures. I hate to see us just
8 take this out and put it back as another program with strings
9 and separate it out from the rest of social services.

10 Senator Dole. Mr. Chairman?

11 The Chairman. Senator Dole.

12 Senator Dole. We have been working on this trying to
13 figure out some compromise to provide -- of course, what we
14 want to do is provide the states with the opportunity to make
15 the final decision. That has been the expression from Senator
16 Moynihan, Senator Danforth, Senator Packwood, and everybody
17 shares that view, and we have concluded, or I have, just based
18 on what I have heard and what we have been able to elicit of
19 them that we ought to maintain Titles IV-A and IV-B as
20 separate entities and at the same time remove some of the
21 restrictions on states for utilization of funds.



22 I am going to offer in the form of an amendment a little
23 explanatory sheet that was discussed with Mr. Stern. It may
24 not all be agreeable, but if I could pass that out, maybe if
25 there is no disagreement, that might be something to work from.

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The Chairman. All right. Pass that out so that we can see it.

Senator Hathaway. Why do you want to decrease the emphasis on foster care?

Senator Dole. I do not know if it decreases the emphasis. What we are doing is getting ready to do into another program, the adoption subsidy program, where we hope we will have a more final solution of some of the problems.

Just let me say that insofar as foster care is concerned, the first suggestion will be the ceiling on Federal funds, 10 percent above '77 and it increases each year to '82. That is consistent, as I understand it, with the staff recommendations. Is that correct?

Mr. Stern. Yes.

Senator Moynihan. We have agreed to that.

Senator Dole. You have agreed to that, so there is no problem there.

Subparagraph (b), any surplus by decreasing foster care could be retained by the states to serve as an incentive to reduce foster care.

Senator Moynihan. Mr. Chairman, I think that this would be very agreeable. It is a very sensible movement. It is the main thrust of this legislation to encourage adoptions as the preferred alternative to foster care.

Senator Dole. That is the only way we are talking about

1 the reduction.

2 Senator Hathaway. I see.

3 Senator Dole. I do not know if there is any disagreement
4 with that, is there?

5 Senator Curtis. How are you going to encourage it?

6 Senator Moynihan. There is an allocation formula which
7 each gets a certain amount of money. If they do not use it
8 for foster care, they can use it for other reasons. The
9 present situation is that most states do use it for foster
10 care.

11 The states that we heard much in testimony are spending a
12 great deal more on these programs than they get from the
13 Federal government.

14 Mr. Stern. It would be retained as a part of the child
15 welfare services. It would go into the funds for child
16 welfare services.

17 The Chairman. It is not that exactly, that particular
18 thing, the language that we have there does not say that.
19 What you have in mind, if they do not need all of that money
20 for foster care, they can use it for some other child services?

21 Senator Dole. Right.

22 The Chairman. Some other welfare services, social
23 services.

24 Senator Dole. That would be the reference to IV-B.
25 There may be some disagreement on this. Of course, it has



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1 been indicated by everybody that there has been some hope
2 that we would maintain it as a separate entity from Title XX.
3 I think that is fairly well agreed upon.

4 I just talked to Senator Moynihan; he would have some
5 objection to converting it to an entitlement program at the
6 level that we discussed yesterday.

7 We would suggest that. During fiscal '78 the level would
8 not exceed \$120 million on the theory that you are not going
9 to be able to suddenly spend all of this money when the average
10 appropriation has been \$56 million.

11 We would hope that we could retain the entitlement program
12 unless there is some strong objection to that.

13 Senator Nelson. Keeping the Title separate?

14 Senator Dole. Right.

15 Senator Moynihan. Mr. Chairman?

16 Senator Dole. That is not the only thing.

17 Senator Hathaway. In your explanation of Title IV-A,
18 any savings achieved by decreasing foster care, you mean provide
19 more for adoption?

20 Senator Dole. Right.

21 Senator Hathaway. They could only use that surplus for
22 adoption purposes and not just decrease foster care?

23 Senator Dole. Not some intentional effort.

24 Senator Hathaway. To have more adoptions than foster
25 care.

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1 The Chairman. Anything they say they can use in the
2 form of a social service.

3 Senator Dole. Some of the averages on foster care --
4 maybe I will have to call on staff. It goes on three years
5 on foster care. With the adoption subsidy program, you may
6 be able to permanently place that child, the hard-to-place
7 child, which reduces the foster care expenses. That is the
8 hope.

9 Senator Hathaway. I wanted to make sure that that is
10 explicit here, so they do not reduce foster care money and
11 put it into child care generally.

12 Senator Dole. That is not the intention at all.

13 Do you have any objection to the entitlement?

14 Senator Moynihan. Let me put it this way and ask the
15 Committee how they feel. We came yesterday and we suggested
16 if there was to be an increase in these funds, if we are
17 going to look to this whole question of legislation, that
18 it would be a useful and systematic move to take these
19 particular services and put them into general Title XX, which
20 the Congress has created to provide social services.

21 This was an entitlement. It is a very large sum now, and
22 it is our best way to get money for social services and the
23 Committee agreed to do that as a reform, as a way of having
24 standardized understandable legislation.

25 Before the day was out, we had created a storm and the

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1 storm came from, in this case, the special interest, like
2 every title in every bill that is adopted by this Committee
3 creates a special interest of some kind and they have come
4 yelling and they have a right to do it.

5 They wanted no change. They wanted to keep their particu-
6 lar money theirs and theirs alone, even though they are a part
7 of general merger funds in state government. As a general
8 practice, these monies are all mixed up. If they want to
9 keep alone, keep what they have had for forty years in Title
10 IV, my view is let us keep what we have. Why should we
11 reward this particular behavior by them making what is now
12 an authorization request into a new title?

13 Senator Talmadge spoke yesterday about the problem of
14 entitlements growing and the budget becoming a fixed charge
15 but the President and the Congress do not have much control
16 if the interests do not want reform. Let them have the old
17 regime. Why improve the old regime for them.

18 Senator Dole. Mr. Chairman, I raised the question about
19 entitlements yesterday and pointed out the question that the
20 Budget Committee raised, so I think that the point made to
21 me at least was, if it is dumped into Title XX, we have a
22 group here dealing with child welfare services that is not
23 quite as well-equipped and does not have -- maybe they do
24 have, but the indication is that they do not have -- the
25 clout to get there and fight for that part of that package.



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Therefore, they would like to remain separate. I am certain the Senator from New York would not want to punish the many --

Senator Moynihan. I do not want to punish them at all, Senator. Yesterday we wanted to quadruple their funds.

Senator Dole. Senator Long made a very good case for increasing the funding and persuaded me that maybe the entitlement program was correct. If it was correct yesterday, maybe it is correct today.

Senator Moynihan. I am sure the Senator from Kansas is very reluctant to see automatic irrevocable claims on the Treasury going up and up and up. After all, these are services. This is money going to children, money going to adults who provide the services and they want a sheltered workshop. Then let it be. Let them have a sheltered workshop in IV-B. They have not made the case this should be an entitlement, since they are asking for both worlds. We should give them one or the other.

The best of both worlds is to have a separate title and an entitlement, and it does not seem to me to be in the direction of welfare reform, nor is it in the direction of budget control. We are increasing generously the resources for adoption and other services in this legislation. If they want no change, let there be no change. That is my view. Senator Dole. The only thing I would add -- now, I argue

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1 for the entitlement and yesterday you were arguing for the
2 entitlement. We just changed seats.

3 Senator Moynihan. Right, but let us have a complete
4 reversal. I will take your view of yesterday and you will take
5 my view of yesterday.

6 Senator Curtis. What is your opinion tomorrow?

7 Senator Dole. Tomorrow will be a farm conference and we
8 will have another entitlement conference for farmers.

9 I think the Committee should think about this. If we are
10 really concerned about this program we ought to be concerned
11 about proper funding of the program. Maybe they can do
12 better in the authorization process than they have done in
13 the past. They have had the authorization, but they have about
14 one-fifth of that in the appropriation. That is the only
15 point I make.

16 If there is a need for the service, it is like every
17 other need. I guess we have some responsibility to face up
18 to it.

19 The Chairman. You are talking about child welfare
20 services now?

21 Senator Dole. Right.

22 The Chairman. I regret to say that I do not know as much
23 about that program as I would like to know. I do not know
24 why the Appropriations Committee is not providing the money
25 that they could have provided for it.

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Mr. Stern. Basically, because the President is going to ask for it. You increased the authorization some years ago. No President has asked for any substantial increase. The program has been at about the same level for ten years.

Senator Moynihan. This Administration, may I say, has shown a great interest in the program. I am sure they will ask for the full authorization. I am sure that they will get it because I think they will have persuasive arguments.

Mr. Stern. The Administration, at this point, is committed to seeking an additional \$63 million in fiscal year '78.

Senator Moynihan. I am sure that they will want the whole \$266 million.

Senator Dole. Would that be the \$120 million level, then?

Mr. Stern. That is correct.

Senator Dole. What we suggested yesterday and the full amount in '79?

Mr. Stern. That is right.

Senator Curtis. Mr. Chairman?

Senator Dole. If it is going to happen, maybe it does not make any difference.

Senator Hathaway. We might as well have the entitlement.

The Chairman. Since they are going to ask for more money, and all indications are that they will, I do not think we need

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1 convert this to an entitlement program.

2 Senator Packwood. I agree.

3 Senator Hansen. I go along with the Senator from New
4 York on that, and the Chairman.

5 Senator Hathaway. Let us vote on it?

6 The Chairman. Why do we not drop that part of it?

7 Senator Dole. I dropped it yesterday, but the Chairman
8 persuaded me that entitlement was such a good idea, overnight
9 I changed my mind. If we are certain that the money is going
10 to be there, I think that is the point that we want to make.
11 Everybody on this committee supports that. It will probably
12 be there.

13 Senator Moynihan. This Committee has done its job.
14 Let the Administration do its job, and the money will be
15 there.

16 Senator Dole. We could suggest in the report that
17 the full authorization be requested.

18 The Chairman. Let us vote on it.

19 All those who want to convert this particular program to
20 an entitlement program, raise your hand.

21 Senator Nelson. One moment. Are you going to deal with
22 Title B next? Why do we not dispose of Title B?

23 The Chairman. We have a proposal here.

24 Senator Nelson. Is it B, separate or merged?

25 Senator Dole. They have agreed to that.

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The Chairman. We have agreed to that.
All those who want to buy the suggestion of IV-B, raise your hand.

Senator Dole. If the Committee is willing to go on record that there should be the full authorization, I would be against the entitlement.

The Chairman. Fine, then.

Should we agree that there should be a full entitlement, we, as a group, favor the idea of a full entitlement?

Senator Nelson. Put the language in the report?

The Chairman. This is something that the Appropriations Committee would handle. If we can agree that there ought to be full funding, that is fine with me.

Senator Dole. If they cannot make a case, that is their problem.

The Chairman. All right.

What is your next point now?

Senator Dole. The next point will be states may not supplant monies received under those Titles for state monies, the maintenance of effort.

The Chairman. Does anybody have objection to that? The maintenance of effort applied to this? Offhand, I do not know.

Senator Curtis. I am not so sure if I know what maintenance of effort means.

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The Chairman. You can get yourself in trouble with a maintenance of effort. The states are doing a lot in some area. You are providing a Federal matching. They honestly feel that this is surplus to their needs.

If you are going to have them maintain effort, suppose a state is doing about what you ought to do anyway? Then you have to have them maintain effort to get Federal matching, they have to do twice as much as they think they have to do.

Oftentimes, it was thought to be a complete waste of money, so when you put that maintenance of effort in there, that denies the states the right to decide whether they think the existing program is adequate.

Senator Dole. I am just advised that this is not really maintenance of effort. In other words if you have \$50 million Federal funds and \$25 million state, you cannot supplant and say we will not use any state money. It is not the maintenance of effort, you cannot substitute Federal funds for state funds.

Senator Hathaway. They could drop their effort from \$25 million to \$15 million. Once they match, they could not.

The Chairman. I fail to see the difference.

Senator Packwood. What if a state is now spending \$100 million. Suddenly they get an appropriation of \$256 total. The state now gets from the Federal government, they could spend \$150 million. Do they have to spend that on the service?



1 The Chairman. I was the man who thought up this main-
2 tenance of effort thing. It seemed like a great idea at the
3 time. I want to say I want Grandma getting \$5 more, we will
4 give them more money, but they have to increase everybody's
5 check. Then it applied to first one thing and then another.
6 Then we met ourselves coming back because we had situations
7 where a program was being administered in a wasteful and
8 extravagant fashion. If they did what they ought to do to
9 economize on that program, there would be no savings in the
10 state budget.

11 So while we wanted them to do a good housekeeping job,
12 we thought this maintenance of effort was keeping them from
13 doing that. Then we got into some ridiculous fiasco where
14 you would have a program that was a compete disaster and ought
15 to be tightened up and corrected and they could not do it
16 because of maintenance of effort provisions.

17 If we had maintenance of effort, it would prove that the
18 road to Hell can be paved with good intentions.

19 Senator Hathaway. He means if a state is spending \$1
20 million last year, they could drop that to a half a million.
21 They would not get as much of a match, but they could not take
22 the Federal money and drop what they are spending anyway.
23 They do not have to maintain the same effort as right there.
24 They cannot drop their own state share and use the Federal
25 money after they match to get it.



1 Senator Packwood. What do they use the Federal money
2 for if they are spending as much as they can and suddenly
3 they get more Federal money. What do they do with it?

4 Mr. Stern. Perhaps Senator Dole's item number F really
5 takes care of things. Most of current concern is that if you
6 put additional money in the child welfare services, all of
7 it being spent on foster care and this should be spent for
8 services, it may be that if you say that this money may not
9 be used for foster care and it may take care of this
10 problem.

11 Senator Moynihan. That will speak to your point.

12 Senator Dole. We do not want it all to be spent on
13 maintenance. That could happen if we do not put in some
14 safeguard.

15 Senator Nelson. You have the other side of that coin
16 that you were talking about that concerns me. We have had
17 programs in which the state dropped all of its program. What
18 we really had was a revenue sharing program. They dropped
19 their expenditures or had none and took the Federal and added
20 it.

21 On the other hand, you had maintenance of effort that
22 would be high in some states, and they took a licking on it.
23 You do not want a general revenue sharing program. You do not
24 want a program where they spend more money than they should
25 have. How they design that, I am not sure.



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The Chairman. It is just taking a look at what you are doing. If you could solve your problem with us down here, it seems to me that that is a way to do it.

Senator Moynihan. That fits with the theme of our legislation to encourage adoption and make foster care relatively less attractive. It would be very consistent.

The Chairman. Without objection, we will agree to F. Do you want to match it 25-75 for services?

Senator Dole. Yes.

Senator Curtis. What is it now?

Mr. Stern. It ranges in theory from 33 to 66 percent, since states put up the Federal share of what is actually spent for child welfare services, some 70 percent net, it does not have much meaning.

Senator Curtis. What is the matching percentage now?

Mr. Stern. The formula has come out so that the Federal share is somewhere between 33 and 66 percent.

Mr. Stern. Yes. The Federal share, on the average, is about 7 percent.

The Chairman. How much?

Mr. Stern. 7 percent.

Senator Packwood. They are over-meeting their match?

Mr. Stern. That is right.

Senator Curtis. Why change the matching formula?

Mr. Stern. I do not think there is any practical effect



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of this. The idea was just to make it comparable to the social services matching, which was 75 percent Federal.

The Chairman. How much money is in this program?

Mr. Stern. There is \$56.5 million in Federal right now, roughly \$700 million in state money.

The Chairman. \$56 million Federal now and \$700 million in state money?

Mr. Stern. Yes.

The Chairman. Would this make it 75 percent Federal?

Mr. Stern. This would set a statutory 75-25.

The Chairman. That would be 75 percent Federal?

Mr. Stern. Yes, sir, except you are limiting the amount to \$256 million and, as a practical matter, the Federal share would never be above 25 percent or so.

Senator Dole. I think the reason that the figures are not realistic, I think the current program was designed when the program was very small. Now we are talking about full funding. Many states are going to have to put up almost all and sometimes more than they would.

Mr. Stern. Even though you do not let the Federal money being used for foster care maintenance payments, you allow for state matching purposes, and that being the case, it does not matter too much what the percentages are.

Senator Curtis. Who pays 75 and who pays 25?

Mr. Stern. Under the statute, the Federal government

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would pay 75, the states 25. As a practical matter, it is the other way around. Even when you get up to the full entitlement, the state spends three times that much money.

Senator Dole. You do not think that makes any difference?

Mr. Stern. I do not. I assume it is just to be consistent with Title XX.

The Chairman. Those who favor that ratio, raise your hand?

(A show of hands.)

The Chairman. Those opposed?

(A show of hands.)

The Chairman. The Chair is in doubt.

Those who favor the 75-25 ratio as we suggested, raise your hand.

(A show of hands.)

The Chairman. Those opposed?

(A show of hands.)

The Chairman. That is agreed to, then.

We have one more point. Maintain that requirement, what the counties match. Is that necessary?

Mr. Stern. It says even though the Federal money cannot be used for foster care, the foster care money the states put out could be counted for matching purposes.

The Chairman. No objection.

Mr. Stern. Basically you have everything here as stated.



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1 Senator Dole. Except C.

2 Mr. Stern. C is out and B would not be converted.

3 Senator Moynihan. Mr. Chairman, on IV-B I have a
4 proposal I would like to make to the Committee that I think
5 need not keep the Committee long.

6 Title IV-B monies are now allocated by a formula which is
7 based upon income, per capita income in my view, which does
8 not reflect actual levels of need -- indeed, it, certainly
9 in this area is almost the reverse of actual levels of
10 expenditure.

11 As you know, New York is a high income state, but those
12 incomes mostly, when you compensate for taxes, you adjust for
13 actual taxes, New York State ranks 25th in the per capita
14 income.

15 I believe almost every other member of the Finance
16 Committee has a higher per capita income than we do.

17 Senator Packwood. After taxes?

18 Senator Moynihan. After taxes, disposable income.

19 In any event, I would like to ask the Committee to consider
20 a formula under which child care services would be allocated
21 on a straight per capita basis, on the per capita being the
22 number of children under 21. I must report to the members of
23 the Committee that three states would be advantaged by this:
24 Connecticut, Virginia and New York; and twelve states would
25 not be --



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1 Senator Curtis. All the rest of the 50 states, or
2 just the states represented on the Committee?

3 Senator Ribicoff. All of the states. I would not want
4 to be accused of just taking care of ourselves.

5 Senator Nelson. Mr. Chairman, these formulas are, as
6 Senator Ribicoff said, complicated, but I will assure you
7 right now, since I represent the state that receives the
8 dead last Federal monies per capita of any state in the
9 union, I am not to vote to put us down the tube further.

10 All these formulas come out and we were passing them,
11 not knowing what we do, but my states ranks 50th in terms of
12 Federal dollars that come into the state per capita.

13 Senator Curtis. How many programs?

14 Senator Nelson. Across the board, we are 50th in the
15 nation.

16 Senator Curtis. Including OASDI, everything?

17 Senator Nelson. Per capita on all Federal programs, we
18 rank 50th in the nation. I am not about to vote for another
19 one that takes more money from Wisconsin. I do not care how
20 you slice it.

21 The Chairman. Here is what I would like to suggest you
22 do. If you want to vote on that, we will, but I came in
23 here prepared to vote for one of these Moynihan amendments
24 that would cost about \$1 billion. I do not think that is
25 the one we are talking about, is it?

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1 My reaction is that it is sort of hard for me to come
2 in here and vote for \$1 billion which would be a good deal
3 for New York and vote for something else at the same time.
4 I suggest you reserve that and see if we cannot work it out
5 in such a fashion that the other states could go along with
6 it.

7 At the moment, that \$250,000 is a little high to go.
8 If you are going to go with the other amendment, I hope that
9 the Senator would reserve that one. Maybe we can work some-
10 thing out.

11 Senator Moynihan. I am happy to reserve it.

12 The Chairman. I want to help New York, but I would
13 like to be sure that the burden that we are putting on the
14 other states is something that we think we can do.

15 Let's talk about this other amendment, which I think is
16 a very significant amendment that I would like to support --
17 I think I want to support it. That is the one that would
18 provide this temporary relief to all the state governments.

19 Senator Moynihan. This is a program to provide in
20 accordance with the commitment of the Democratic Platforms,
21 and the Republican Platforms interested in these matters, and
22 statements of the President and others, that the state
23 governments went through a very heavy increase in welfare
24 expenditures associated with the recession.

25 We have had the worst recession since the Great Depression



1 in 1933. We are just coming out of it, and some places are
2 not out of it at all, and there was a great increase in the
3 cost of welfare and we have coming up next week, the President
4 will give us a proposal for a major change, an historic change
5 in the welfare system. He has said that this will not go into
6 effect until the 1980's, and he is almost certainly right in
7 this.

8 So that that would be that this year, in this legislation
9 we would make a one-time, \$1 billion grant to states for
10 fiscal relief to the states for the burden they are now
11 carrying, as a gesture, in a sense saying, hold on, help is
12 coming.

13 We are going to have to take a long time to do that
14 major welfare reform correctly, Mr. Chairman. There is no
15 point in having us be under constant pressure to do
16 something fast.

17 This would allocate \$1 billion and each state would get
18 its portion that they are spending on welfare programs and
19 AFDC, total Federal and state.

20 Senator Dole. Is there any specified purpose to the
21 money?

22 Senator Moynihan. The specified purpose is fiscal
23 relief, the legitimate purpose after the worst recession since
24 the 1930's.

25 Senator Dole. Do you have a summary over there, broken



1 down?

2 Mr. Stern. If you look in the same pamphlet on page
3 20, it describes the amendment.

4 The Chairman. Basically, here is what we are talking
5 about. The states have been told, looking at page 20, the
6 states have been told that they were going to receive
7 temporary relief while we were working on the welfare reform
8 proposal and they were also told that the Federal government
9 is going to come in here and take this welfare burden off
10 their backs.

11 This latter thing -- it will be a big bill -- we are
12 told that the President is to talk to the Secretary of HEW
13 today and the Secretary is expected to lay out to the President
14 what he thinks the program ought to be. I hope very much that
15 the President will consult with some of us in Congress before
16 he puts his final stamp of approval on that, because I do not
17 fully know what that thing is; I do not think anybody else
18 up here does.

19 In any event, that will come down and be a major program.
20 There is some information in the press about it now. It will
21 not become law in this calendar year, of that much we can
22 be sure. It is a major undertaking and it will have a lot of
23 things that people will want to ask questions about and offer
24 suggestions for change.

25 Meanwhile, I know, as far as the Democratic Platform is

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1 concerned, Senator Moynihan wrote that plank and it says
2 these states were going to have immediate relief as soon as
3 possible, or some such thing as that. There seems to be
4 sort of a misunderstanding.

5 The Administration seems to think that "as soon as
6 possible" meant as soon as the fiscal situation of the govern-
7 ment permit. Senator Moynihan thought that meant as soon as
8 the President took the oath of office.

9 While we may allow for some difference of opinion, when
10 we look at the burden on the state government, and a proposed
11 legislative suggestion that most of this should be taken up
12 by the Federal government, the question is, should we vote
13 for some additional funds to the states, which will help them
14 with their problem?

15 I think Mr. Stern has suggested ways that we could do
16 this where you could work this in the budget without too much
17 of an impact.

18 How do you suggest doing that?

19 Mr. Stern. First of all, we suggest that you put the
20 money into two payments, one payment retroactive beginning
21 with the fiscal year; the other, right after the end of the
22 fiscal year. In effect, you are paying the first six months
23 in advance and the second six months after the fact. That
24 cuts the budgetary impact down to \$500 million instead of a
25 billion.



1 Second, we suggest, in line with a comment made by
2 the Secretary of Health, Education and Welfare that the portion
3 of the second payment that they get be tied to improvements
4 in the way they administer their programs. They are not
5 suggesting that the Secretary endorse it, but he said one
6 reason you should not pay all of this money is because of
7 error rates. This suggests that you look at the error rates
8 in the first half of calendar year, 1978, compare that with
9 the base period, and if they had achieved the new rate of
10 4 percent or below, then they get their full share of the
11 second \$500 million.

12 If their error rate is above that, and you see the extent
13 to which they have attained that 4 percent goal.

14 Now, that if for example, if you picked a base period
15 in which they had a 9 percent error rate, and they have come
16 down to 5 percent, they would have gone to 80 percent of the
17 way getting their error rate down to the 4 percent goal,
18 therefore you would give them 80 percent of their share.

19 That incentive for reducing error rates we would estimate
20 would save us \$70 million within fiscal year 1-78, so you
21 save the money in fiscal year '78. That helps you in your
22 budgetary situation and the payment does not occur until
23 fiscal '79.

24 The other suggestion that has been made, if you want to
25 emphasize more strongly fiscal relief to localities, the



1 original Moynihan amendment was framed in terms of the state
2 and localities sharing the fiscal relief on the same basis
3 that they share the cost for AFDC.

4 You might want to consider instead requiring them to
5 pass along all of the fiscal relief to the local level, up to
6 the point where the locality gets 90 percent of its cost paid
7 for, and above that, the state would bear it.-- I am sorry,
8 the states affected are the 12 states at the bottom of page
9 20. They include New York, Virginia, Wyoming and Colorado,
10 among the members' states.

11 Senator Dole. You mean the states affected?

12 Mr. Stern. Most states actually pay 100 percent of the
13 non-Federal share at the state level.

14 Senator Dole. You are talking about the last relief
15 to the localities?

16 Mr. Stern. This only deals with the question of how
17 much relief the localities get compared to the state level.

18 Senator Dole. Do you have any trouble with the Budget
19 Committee on this \$1 billion?

20 Mr. Stern. Our assumption is that by the time you are
21 done with the entire bill, the cost of the entire bill will
22 be the amount allowed in the budget for the entire bill.

23 This would cost \$430 million. We have some other suggestions,
24 including some Administration proposals, that would save us
25 more money in Aid to Families with Dependent Children.

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1 When you are all done, with regards to the entire bill --
2 Senator Talmadge. When we get into the error question,
3 I want to hear from Mr. Bill Galvin. I asked him to do some
4 work on that.

5 Senator Moynihan. May I say that this is the first time
6 that this Committee has given a real, direct incentive to
7 states to get their error rates down. That money can be
8 gotten by saving money.

9 Senator Curtis. I have a couple of ideas on this quality
10 control too.

11 The Chairman. All states do get some of this money, is
12 that correct?

13 Senator Moynihan. That is correct.

14 Senator Dole. Wisconsin gets a pretty good chunk. You
15 rank eighth.

16 The Chairman. Tell us how this chart works, on page
17 22.

18 Mr. Stern. The chart on page 21 deals with the question
19 of what you pick as the base period. Just showing the first
20 two columns, the distribution of the first \$500 million is
21 just on the basis of the total cost for AFDC in December
22 1976 by state.

23 If a state had 2 percent of the total cost of AFDC
24 in December, 1976, he gets 2 percent of the first \$500
25 million.



1 The second \$500 million would be distributed on the same
2 basis as a possibility, but in order to get the full share
3 you would have to have an error rate of 4 percent or less.

4 There are a few states -- if you look at the fifth column,
5 error rate in cash payments, July to December, 1976, you will
6 see that there are a few states that do meet that: Idaho
7 has a 3.5 error rate, Indiana, 3.2 percent, and so forth.

8 Most states are above that goal.

9 If you take January to June, 1975, as your base period,
10 then the states have already reduced their error rates toward
11 the goal in the way that is shown in the third last and
12 fourth last column. If you pick a little bit earlier base
13 period, you actually do benefit more.

14 Senator Moynihan. May I interject here, Mr. Chairman?
15 We are really doing something good on this incentive thing,
16 I believe. I think we should take that July-September base
17 period, the first column, for the simple reason if we took
18 any subsequent time, we, in a curious way, would be penalizing
19 states for having done what we asked them to do. That was
20 a period where we were saying, if you do not improve your
21 error rate, you are going to have trouble with us. In a
22 sense, those who manage to do so are going to have a harder
23 time getting the share of the second period.

24 Senator Dole. July-December?

25 Senator Moynihan. The Subcommittee thinks that is the

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base period.

Senator Nelson. The base for determining what they got under the program?

Mr. Stern. The base in determining how much progress they made to achieving the goal of a 4 percent error rate. Nothing effects what they get in October of '77.

Senator Nelson. You take the '74 figure and compare it with the '76?

Senator Moynihan. Your performance in '77.

Mr. Stern. Compared to January-June 1978. That allows them time to get geared up. In the case of Wisconsin, they already have an error rate of below 4 percent, so Wisconsin would get their whole share, if they maintain what they are doing.

Senator Curtis. Wisconsin would get \$11 million?

Mr. Stern. That is correct. Wisconsin would get \$11 million in October, 1977, assuming that they can maintain the fact that they got below 4 percent. There would be another \$11 million in October of '78.

Senator Bentsen. Texas gets such a low amount. Is it the state's contribution towards the Federal?

Mr. Stern. Not state versus Federal. A matter of the total cost of the program in Texas. Texas has relatively lower benefits, therefore the total cost of the program in Texas as of December, '76, it was only 1.2 percent of the



1 total national cost.

2 Senator Bentsen. Let me ask the Administration's position
3 on this. Let me ask what you do about the Budget Resolution?

4 The Chairman. As I understand it, they are opposed to
5 it. Basically, their position is that because the budget
6 is in a deficit position, they do not feel that we can afford
7 the money.

8 Does someone care to speak for the Department on that?

9 Ms. Adaway. They would prefer to take this up in the
10 form of the welfare. They do not have the money at this
11 time.

12 The Chairman. One, the government does not have the
13 money; two, they would rather consider all of this in connec-
14 tion with the welfare reform bill.

15 We do not buy that. I asked Secretary Califano, you
16 want us to go for about \$12 billion of printing press money
17 to finance Social Security. Here you are, talking about this
18 \$1 billion being something we cannot afford because you do not
19 have the money.

20 Why can the Federal Reserve -- which is taking care of
21 the general fund -- not take care of this, as they are for
22 the general fund, before you get to borrowing that money for
23 Social Security?

24 Senator Bentsen. I will be consistent with what I was
25 yesterday and what I will be today, and vote against going to



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state. I notice it is that way in quite a few states.

If you do what is suggested here about tightening up on the program, that will have to carry over into the welfare reform bill and I believe, in the long run, that the savings will be tremendous, if the states are doing the kinds of things we would want them to do, which I am sure will find its way over to the successor program.

Senator Curtis. Mr. Chairman, in that connection, I will call up at the appropriate time a proposal that I have that the quality control function be in the Office of the Inspector General.

Senator Talmadge. I have an amendment similar to that.

Senator Curtis. Also, I think that the quality control tolerance level should be established legislatively at 4 percent and my proposal calls for sanctions if they see the 4 percent, they do not lose all of their money, but they lose that which is over that.

Senator Talmadge. Bill Galvin has an amendment similar to that.

Senator Curtis. These are needed more than ever if we support this additional fund, but we do not have to have the additional fund to set some of these things in motion.

Senator Moynihan. Would the Senator yield?

Senator Curtis. Yes.

Senator Moynihan. It seems to me that that is right, that



1 we do not have to, but we are trying to make a good-faith
2 gesture of support to those states who are coping with lots
3 of troubles, some of them, and, at the same time, we put
4 stronger and stricter requirements on their performance, we
5 also give them some extra incentive of doing it.

6 It is a one-time bill, not a bill that is going to go
7 on forever and ever; \$1 billion once, accompanied by very
8 strict measures and incentives to improve, and it is within
9 the budget authorization.

10 Senator Bentsen. What happens after that?

11 Senator Talmadge. Many of these states will be the
12 primary recipients of this relief. Do they not have the
13 welfare payments so high that it is more attractive to be
14 on welfare than to work?

15 Senator Moynihan. That is a subject that we are going
16 to be on for the next year and a half in this Committee.

17 Senator Talmadge. I agree.

18 Senator Dole. You could probably work out some package,
19 could you not, with a quality control amendment, the Talmadge
20 and Curtis and the Moynihan?

21 The Chairman. Implicit in Senator Moynihan's suggestions,
22 I sat with him through the hearings -- implicit in what he
23 is suggesting is that he would advocate that New York and any
24 state where they have a high error rate should be required
25 to tighten up on these errors and to run a tight ship as a



1 condition of getting the benefits of this amendment. He has
2 been very forthright.

3 I can do nothing but praise him about that. Before these
4 rip-offs occur, the state has a duty and the city has a duty.
5 When you couple that with this money, I think this is a fine
6 thing. Obviously you are not going to find very many Senators
7 who are going to want to vote for something to give relief to
8 New York unless their states get the same type of benefit.

9 I am trying to recall -- we were getting into one
10 aspect of this failure to cut down on the error rate, and I
11 locked down there at Louisiana --

12 Mr. Stern. Child support collections.

13 The Chairman. Pursuing these runaway fathers. We gave
14 them everything it took to do the job. New York was doing a
15 poor job, so was Louisiana, so were a lot of other states.

16 This would call on all of them to do what we expect of
17 them, and I think the package not only provides relief for
18 states which has been promised, but also it is a long stride
19 towards clearing up what is wrong with the program today.

20 Senator Bentsen. Mr. Chairman, I like that part of it
21 where it is aimed at the abuse, in putting a carrot out there,
22 an incentive, in trying to get them to drop the rip-offs
23 and the fraud and the error.

24 The statement has been made that this is not permanent,
25 this is two years. What are the incentives after the two years



1 pass? What happens then? How do we keep them honest?

2 The Chairman. We are led to believe we are going to have
3 welfare reform.

4 When the Federal government -- I have had some of the
5 aspects of it related to me. I do not know the thing well
6 enough to relate it to the Committee, but what does that
7 mean? There is a great deal more relief to the state budgets
8 than what is here. It goes far beyond this.

9 This is a drop in the bucket compared to what that would
10 do in easing the burdens on state governments.

11 Senator Bentsen. You think the incentives will be built
12 into that?

13 The Chairman. While we are working on the bill, all
14 these state governments are doing these very things we want
15 done to run that kind of ship. Somebody has to take a look.

16 The most obvious situation is where someone says that
17 she has no means of support of those little children and there
18 is papa living there in the house, home every night, except
19 when somebody from quality control comes around, and situations
20 like that.

21 Somebody ought to take a look at if that family is really
22 destitute or not.

23 At this moment, that is not being done adequately.

24 In some places, they are not looking at the place at
25 all to see if they have been abandoned. They really have not



1 been abandoned at all.

2 That is a bad situation.

3 We have all kinds of situations. What are those facts?
4 Compare the facts in Michigan to New York, for example. That
5 makes about the most extreme comparison. Louisiana has nothing
6 to brag about; we are in bad shape too.

7 Mr. Stern. Michigan, in fiscal year '76, collected about
8 \$54 million --

9 The Chairman. Spending how much?

10 Mr. Stern. Spending \$7 million.

11 The Chairman. All right.

12 Mr. Stern. Louisiana spent \$3 million and only
13 collected \$900,000.

14 The Chairman. Talking about New York, what did they do?

15 Mr. Stern. New York spent \$33 million and collected
16 \$7.8 million.

17 The Chairman. How much.

18 Mr. Stern. New York spent \$33.3 million and collected
19 \$7.8 million.

20 The Chairman. \$7.8 million.

21 I am ashamed of Louisiana, they spent \$3 million and
22 collected \$900,000, but New York has spent \$33 million and
23 collected \$7 million.

24 While we are calling on those states to do this job --

25 Senator Dole. You did better than I did, percentagewise.

1 The Chairman. I am ashamed of my own state.

2 Senator Moynihan. We have pulled up and are about breaking
3 even now because of the incentives that this program has had.
4 The better you do on this, the better off you are.

5 The Chairman. That is right. Basically, we have been
6 talking about doing some of these things that would tighten
7 up the program and I really think to get it done, you need
8 both the carrot and the stick. You need to give them some
9 money to do a good job.

10 On the other hand, say if you are going to get the
11 benefit of it, you have to do something to improve your
12 situation.

13 Senator Curtis. The proposal that some of us are inter-
14 ested in is that it be established by statute, a tolerance
15 level of 4 percent, and then apply sanctions. This would be
16 permanent law. It would not be conditioned upon a special
17 additional amount. It would apply to all of this.

18 I understand the estimate on the savings is \$200 million.
19 Is that right?

20 Mr. Swoap. Yes.

21 Senator Talmadge. Mr. Galvin, is that different in any
22 respect from our amendment? Will you tell the Committee what
23 you have worked up at my request?

24 Mr. Galvin. What your amendment would do would be to
25 provide quick identification --



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The Chairman. Let me just say how the Committee wants to go forward. I would just like to ask about the Committee there is nothing binding about this, we can change our mind.

How many feel we should go forward with this carrot and stick approach we are talking about here where we provide money for the states, but also require that they tighten up on that program.

If you feel we ought to go for that approach, raise your hand.

(A show of hands.)

The Chairman. Those opposed?

(No response)

The Chairman. Go ahead and talk about Senator Talmadge's amendment now.

Mr. Galvin. His amendment would provide quick identification in specific areas of fraud and abuse to help the states and the Inspector General to control these problem areas. At the same time, it would provide identifiable sources of management problems and help states to solve those problems.

HEW would be required to develop, through the use of quality control data, an individual quality review finding method for us determining cases of large adult areas and ascertaining the locality and offices where such areas are frequent, and providing technical assistance to the states and localities using both Federal staff and outside specialists



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1 and computer systems analysts and welfare program administra-
2 tion and management, on the method or methods best suited for
3 that particular state.

4 Localities and offices would then be able to quickly and
5 effectively reduce their high error rates and erroneous expen-
6 ditures. To do this, the sample size of the caseload to be
7 reviewed would be a sufficient size for statistical certainty,
8 the localities or offices in large cities that have a high
9 error rate.

10 There would be timely reporting of the state and Federal
11 sub-sample review findings to the Inspector General who would
12 monitor the program so that quick action could be taken to
13 identify fraud and abuse and to furnish states the information.
14 In addition, the IG would be furnished by the program officials
15 of the data relating to administrative problems.

16 If Federal reviewers cannot to do the state review
17 because of repeated failures of the states to submit their
18 findings on a timely basis, there would be an additional cost-
19 effect.

20 His amendment would continue to have legislation for a
21 continued quality control program as state requirement.
22 Now, field investigations by the state are being made by all
23 states requested for review, except negative case actions.
24 That is denial of applications and terminations of assistance.
25 The Federal review of the subsample would continue to be

1 made. A field investigation on this full subsample would also
2 be made. Validation of the states' follow-up action on prior
3 six months error rate would be made. The total eligibility
4 requirement under the accrued state plan would be included
5 as elements to be reviewed. Such reviews would be case record
6 data at the time the case was selected, on the caseload basis,
7 that is, with the investigation not depending on nearly what
8 is in the record, but going beyond the record to determine
9 the validity of what was in the record.

10 Payment adjustment is not made because the decision
11 requesting a hearing was not made, would not be counted as an
12 error.

13 Fiscal incentive would be provided to states with a
14 combined dollar rate of less than 4 percent of the cases found
15 by the reviewers to be ineligible or overpaid. Since AFDC
16 eligibility affects Medicaid eligibility, the quality control
17 program would also be carefully monitored by the Inspector
18 General.

19 If you were to adopt Senator Moynihan's proposal, Senator
20 Talmadge's amendment would allow that any errors relating to
21 the changes made by that amendment would not be considered for
22 comparative purposes in the six-months period included in the
23 second 500 part of the proposal. They would be counted. They
24 would be reported. They would be counted for purposes of
25 comparison.



1 Senator Curtis. Mr. Galvin, I think that I would support
2 that. That is not either/or the proposal I was talking about.
3 We could take yours and then we could also consider mine.

4 Mr. Galvin. That is right.

5 Senator Talmadge. That proposal, as I understand it,
6 would reward states with an error rate of less than 4 percent
7 and penalize them if they have an error rate greater than
8 4 percent.

9 Mr. Galvin. We do not have the penalty provision that
10 Senator Curtis does.

11 Senator Curtis. I have a penalty. The reason is that
12 is all we did in your bill on Medicaid.

13 The Chairman. Let us look at the Talmadge amendment
14 first. Is there any further discussion on that amendment?

15 Senator Moynihan. I would like to make a comment.

16 The Chairman. Senator Moynihan.

17 Senator Moynihan. Let me say, Mr. Chairman, that I
18 generally support this proposal. I think Senator Talmadge has
19 been very thoughtful about it; he is right about it; and it is
20 the right combination of incentive. It is an incentive proposal,
21 not a penalizing one.

22 I would like to make one general -- well, a few specifics.
23 Let me first go back and report to the full Committee something
24 that we heard in the hearings we held for five days. It is
25 very supportive of what Senator Talmadge said, and which

1 everybody around this Committee room wanted to hear.

2 We had before us some very impressive testimony. Mr.
3 Galvin arranged it: Mr. Wayne Dixon and his colleagues.

4 Mr. Galvin. They applied for the Committee for this.

5 Senator Moynihan. They asked for it.

6 These were people who were working in quality control for
7 HEW, management people. They are computer specialists, not
8 welfare oriented. They just have this assignment.

9 And Wayne Dixon, who is clearly a man of ability, said
10 there was one clear finding that they came up with, that
11 people really dependent on welfare, do not cheat. They do not
12 take the risk. They are dependent people and they do not
13 do this.

14 The cheating comes from people -- pick any state -- let's
15 say we read the Washington Post this morning and Secretary
16 Califano was testifying yesterday about the number of District
17 of Columbia employees who are receiving welfare. That fits
18 with the Dixon hypothesis, if you already have a civil service
19 job, you try to get on welfare.

20 We are not talking about penalizing people who need help.

21 I would also like to say, in the spirit of openness, I
22 think that it must be clear that error rates involve overpay-
23 ments and underpayments, and underpayment is an error and it
24 also penalizes the person. The people get less.

25 The ratio is -- Mr. Stern, I am making a wild guess -- for

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every two overpayments, there is about one underpayment, is there not?

Mr. Stern. From July to December '76, the eligible but overpaid represented 3.9 percent of the money; the eligible but underpaid was .9 percent of the money.

Senator Moynihan. A lot of people get underpaid. That should be a part of any system, Senator Talmadge. That should be an error just as much.

For instance, in investigations, they should investigate terminations or refusals to open. There can be errors there that we do not want. We do not want a state refusing to open a case or close a case.

The other general point I want to make -- this is something that Senator Bentsen should talk to us about -- do you ever get an error rate of 0 on anything you run as a mangement proposition?

Senator Bentsen. Of course not.

Senator Moynihan. What is the actual error?

Senator Bentsen. I wish I knew.

Senator Moynihan. Is now 1 percent -- if you were a big insurance firm and you have 1 percent, you feel pretty good?

Senator Bentsen. Yes.

Senator Moynihan. 4 percent is a pretty good error rate. Senator Talmadge may want to speak to that. It is an impossible idea, no mistakes.



1 Senator Moynihan. May I just ask, could we discuss
2 later, after we agree, that we should not think of going down
3 to 0, but maybe we should say 2 percent?

4 Senator Talmadge. Senator Curtis suggested 4.

5 Mr. Galvin. We are going to 4 percent, Senator Moynihan.
6 4 percent is a tolerant level. That is a staff recommendation
7 and modification of your bill: 4 percent dollar rate, not
8 4 percent cases.

9 Senator Ribicoff. Let me ask a question. I am curious.
10 The first thing you talked about, what would that cost to
11 put into effect?

12 Mr. Galvin. It would create a saving.

13 Senator Ribicoff. What would it cost first, the whole
14 thing?

15 Mr. Galvin. What does the whole system now cost?

16 Senator Ribicoff. What would it cost your proposal?

17 Mr. Galvin. The additional cost would be less than
18 \$200,000. Very, very minimal.

19 Senator Ribicoff. \$200,000 for the whole country under
20 the Talmadge amendment.

21 Mr. Galvin. Yes.

22 Senator Ribicoff. How much do you estimate that it would
23 save?

24 Mr. Galvin. The savings would be by itself, without
25 Senator Moynihan's proposal, it would be \$5.1 million.



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The Chairman. \$5.1 million.

Mr. Galvin. With Senator Moynihan's proposal it would be \$36.5. With sanctions, it would be \$195, roughly.

Senator Ribicoff. I am just curious where you get the figures?

Mr. Galvin. From HEW.

The Chairman. \$195 million?

Mr. Galvin. With Senator Curtis' amendment.

The reason this amendment is so effective, until they put sanctions in the program in 1973, quality control, which had been instituted back in 1964 because of the widespread error rates found throughout the country by national review, the GAO studies in D.C., that continued what is known as merely a review of the case record. It was not until they put the field investigations in in 1970 that something was done. It was very, very slow to be implemented.

It was so slow that the GAO said there were eighteen states who had not entered the program. Two years' later, HEW cited a number of these states for noncompliance.

The Chairman. If we can save \$190 million, that is worth trying. It is a big problem.

How much does the overall program cost, the AFDC program?

Mr. Galvin. \$10.5. The Federal cost is \$6 billion.

The Chairman. That is about a 1 percent saving. That is good, if we can save that.



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modification, there was \$240 million in savings in this program. They were in writing from HEW, a five-year projection --

The Chairman. We know we can save a lot of money. Mr. Califano was very enthusiastic about it. Just putting a computer to work has indicated all kinds on the welfare rolls. Just read this morning's newspaper. You have it here in the District of Columbia. Here are all of these government employees supposed to be putting the poor folks on the roll and who are they putting on the rolls? Themselves on the welfare rolls.

Right next door in Maryland, Governor Mandel instituted a program where you require the recipients to have an identification card, just have your picture taken so you can identify them by the identification card. 11 percent of them did not show up to have their picture taken.

There has to be a tremendous savings that can be made. I do not know of anybody that does not think where there is a large error rate that you should not do something about it.

Meanwhile, in the course of it, if somebody can show this goes too far, but the shortcoming so far has been to tolerate fantastic mischief which could variously have been brought to a halt.

I think that is what Senator Talmadge is trying to get at.

14

1 Senator Talmadge. Exactly.

2 The Chairman. I think that the suggestion made by
3 Senator Moynihan, if any poor soul is not getting what is coming
4 to him, by all means see that he or she gets it. If somebody
5 is ripping off, that gives the whole program a bad name and
6 makes it so that those of us who come in here to vote to put
7 the \$1 billion in to help some poor soul -- we are apologizing
8 instead of bragging about it.

9 I do not want to have anybody ripping us off. As Senator
10 Moynihan pointed out, the people who really need help are
11 not the ones who cheat, and the ones who do not need it --

12 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 Senator Curtis. Can we hear this related item?

18 The Chairman. All right.

19 Senator Curtis. What we want to do here is establish
20 a tolerance legislatively to be 4 percent.

21 Mr. Swoap. That is correct, Senator. The Curtis amend-
22 ment reflects the concerns that were expressed by the
23 Chairman and Senator Talmadge. If a jurisdiction continues
24 a high level of error rates in overpayments or ineligibility,
25 they will continue to receive the existing level of Federal



1 The Curtis amendment addresses that issue.

2 For example, if you look on page 21 on this fiscal relief
3 table, the District of Columbia, as Senator Talmadge and
4 Senator Long pointed out, have increased their error rate
5 over that three six month period of time. They would get
6 none of the incentive payments under the Moynihan amendment,
7 but would continue to receive the existing continuing level of
8 Federal funding.

9 The Curtis amendment would say that to the extent that
10 they continued to have a high error rate, they would no
11 longer receive a portion of the Federal funding which was
12 in excess of 4 percent.

13 Senator Curtis. Now I want to ask you a couple of
14 questions. Is that not plan, that principle, what we followed
15 in the Talmadge matter relating to Medicaid?

16 Mr. Swoap. Very similar. Senator Talmadge has 120 percent
17 above the average margin, and this provides --

18 Senator Curtis. The idea of having sanctions?

19 Mr. Swoap. That is correct.

20 Senator Curtis. Tell us what the sanctions are. We have
21 had other programs where they shut off all the Federal money
22 and the states had to have in here. What do we have in
23 here?

24 Mr. Swoap. This would say that to the extent that they
25 continue an error rate above 4 percent that they would no



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1 longer receive the Federal funding for that portion which was
2 in excess of 4 percent.

3 Senator Curtis. It does not take their welfare away.
4 It just means that if your error is over 4 percent you do not
5 get any Federal funding for the excess over 4 percent.

6 Senator Bentsen. When is that put into effect? You have
7 states like New York, for example. You have to give them some
8 time to get down.

9 Senator Curtis. Any effective date you want.

10 Mr. Swoap. The effective date in the amendment is January
11 1st, 1978.

12 Senator Curtis. '78.

13 Senator Dole. That would be pretty fast.

14 Senator Bentsen. I do not see how they can do it.

15 Senator Curtis. I will negotiate on that.

16 I do not think we can do the whole job by incentives
17 alone. I think the District of Columbia -- and we have had
18 other programs where states do not meet Federal requirements,
19 they lose the whole thing. That is bad. Then they all have
20 to come in here with bills to take care of it.

21 All they would lose is the excess.

22 What date do you think it should be?

23 Senator Hathaway. In view of the fact it would not
24 be January 1, 1978, defer it until such time as we get into
25 the overall modifications of the welfare program. There would



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1 still be time of a realistic date, 1980.

2 Senator Moynihan. I would have to say that this a
3 matter that affects so many states, it affects so many states.
4 We would want to hear from those states.

5 Senator Dole. We do not hear from them when we give
6 them money; why hear from them when we save some?

7 Senator Moynihan. I think Senator Curtis' proposal should
8 be part of the things that we consider as a general welfare
9 reform. Give them a chance to come in and tell their story.

10 Senator Curtis. What are your figures?

11 Mr. Swoap. As the proposal stands before the Committee,
12 for the two separate \$500 million payments, incentive payments
13 to the state that the net cost in fiscal '78 would still be
14 in the neighborhood -- correct me if I am wrong -- in the
15 neighborhood of \$450 million.

16 As it stands, the net cost, which is within the budget
17 authority, but is still an additional cost.

18 Mrs. Stern. We were thinking of \$430.

19 Mr. Swoap. \$430 million. The savings in the Curtis
20 amendment would be in the neighborhood of \$195 million, which
21 would fund a portion of that additional cost.

22 Senator Curtis. The \$195 million would come out of the
23 whole program, not this temporary relief.

24 Mr. Swoap. That is correct.

25 Senator Dole. What is the cost of the total program?

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1 Mr. Swoap. Approximately \$6 billion currently in AFDC
2 and Federal share.

3 Senator Dole. If you made this October 1, 1978, that
4 is the start of this next fiscal year. Would that be too
5 late?

6 Senator Curtis. I think it is better to get it in the
7 law. I do not mind moving it up some.

8 Senator Dole. It would be about a year from now.

9 Senator Curtis. If we had to go beyond January 1st, what
10 do you think we should opt to do?

11 Mr. Swoap. October 1, 1978 might be a very realistic
12 date.

13 Senator Curtis. All right.

14 Senator Bentsen. I wish you would run this one by again
15 for me. I do not understand the impact.

16 Let's take the District of Columbia, for example. How
17 would you penalize them?

18 Senator Curtis. If they had an error rate of, say, 10
19 percent and the statute said it should not exceed 4 percent,
20 their penalty would say they would lose the 6 percent, the
21 difference between 10 and 4.

22 Senator Dole. Say they were getting \$1 million and the
23 error rate was 10 and it was supposed to be 4. How much
24 money do they lose?

25 Mr. Stern. They would lose one-half of the amount, \$60,000.



1 They would lose \$30,000.

2 Senator Curtis. Why do we not take it for October 1st.

3 Mr. Stern. One thing. These quality control things are
4 based on small samples. I do not know what the statistical
5 reliability of a sample like that is. If you come out with
6 a 10 percent error, there is a good chance that the error is
7 7 percent, or it may be 12 percent. That is a very significant
8 penalty you are imposing based on the sample.

9 Senator Dole. How do you adjust it to make it reasonable?

10 Mr. Galvin. There is already an adjustment in quality
11 control as to what is a point estimate. The sample size
12 that they take has a 95 percent certainty. That means
13 there is a plus 5 percent possibility of an error.

14 The point estimate, when you are computing either the
15 case error or dollar area as they used to do, would be
16 90 percent, not 100 percent, not 95, always at the lowest
17 level.

18 Senator Curtis. Would it be difficult to draw if we
19 took the penalty we have suggested here, which is the excess
20 of the 4 percent, and for the first fiscal year we would
21 have the whole thing begin in October '78, the first fiscal
22 year the penalty would be one-half of the excess over 4
23 percent?

24 Mr. Swoap. Yes, sir, you could do that.

25 Senator Curtis. The second year would be the full amount



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1 of the 4 percent.

2 Mr. Swoap. That could be done.

3 Senator Hathaway. You only have eight states' meeting
4 this 4 percent.

5 The Chairman. Let me just suggest that we make this
6 January 1, 1979. The reason I suggest that is that I would
7 think that would be the effective date of this welfare reform
8 bill, if we can pass it that soon. If we can pass a welfare
9 reform bill next year, that would be the date of it, and we
10 would consider this in connection with the welfare reform.

11 We would be talking about the error rate that they would
12 anticipate in their programs, and we could be considering this
13 in connection with us.

14 As you indicate, this could work out to be a severe
15 penalty and there may be a reason.

16 Senator Curtis. It may be effective.

17 The Chairman. I am willing to put this into law, but
18 I am also anxious that we have time to consider this in connec-
19 tion with what the Secretary of HEW and others have to do
20 about errors and abuses in connection with the bill, and I
21 would think --

22 Senator Curtis. I buy that date.

23 The Chairman. January 1, 1978.

24 Senator Bentsen. I am sympathetic to the objective of
25 the Senator from Nebraska, but this is something I would want

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1 to phase in over a period of time. Some of these people
2 start from an awfully high point.

3 Senator Ribicoff. The President is supposed to send up
4 a welfare reform proposal on August 4th. That is next week.
5 We are talking about putting in something that is going to
6 take effect January 1, 1979, Why load up the law? We are
7 going to have to examine the whole thing, the President's
8 program, and rewrite it, then put this in and then junk it,
9 that does not make much sense to me.

10 What worries me, listening to a lot of the criss-cross
11 here on all of these welfare reforms, we are trying to do
12 welfare reform in little pieces when we are supposed to get
13 a whole measure here on August 4th.

14 What has been bothering me is that there are a lot of
15 good ideas, but if we are talking about \$1 billion, I would
16 just as soon use \$1 billion in pilot programs or demonstration
17 programs across this country in anticipation of what we are
18 going to have to face with the President's welfare proposal.

19 It could very well be that, before we are through, we
20 are going to take the President's proposal and pilot that
21 across the nation. I do not think, frankly, the President and
22 Mr. Califano have the slightest idea of what they are coming
23 up with and whether it is going to work or not, and we are
24 going to have the same problem that we had in 1969, '70 and
25 '71 in front of this Committee.

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If we wanted to be constructive in using the \$1 billion, we ought to use that billion dollars in such a way of piloting out some of the thoughts and ideas that we are going to have to wrestle with before we adopt the President's program. We might find that that is what we wanted to do. If we had done this in 1970, we would not be in the mess we were in from 1970 to the present time.

That is what bothers me with all of this discussion. Although there are a lot of good ideas, and I would hate to waste \$1 billion in some stopgap measure, if we could use it constructively to prove out the President's proposal, or your own proposal, or Senator Moynihan's or Senator Talmadge's.

Senator Roth. Mr. Chairman, I think the Senator from Connecticut makes a very valid point, not only with respect to this immediate amendment, but the proposal of the Senator from New York. It seems to me that it makes a lot more sense when we are almost near the time when the President is going to make his proposal, that we ought to wait until then to take what action seems appropriate.

I have some proposals on giving the communities an opportunity to have some demonstration programs. It really goes back to some work the Committee has done and the staff has done. I would hope we would move in that direction. I think we are moving a little prematurely when we do not know what the President's proposal is.



1 Mr. Swoap. If I might respond to one of Senator Ribicoff's
2 observations and one of Senator Bentsen's, the virtue, it
3 seems to me, of having a date certain although it may be
4 at some time in the future on such a provision is that it
5 provides an incentive to those states who did not qualify
6 for the actual incentive payments right now in this fiscal
7 year, in the next fiscal year to get their error rate down,
8 even though it might not go into effect until January 1st,
9 1979.

10 That would be a current incentive upon them to reduce
11 their error rate, and certainly in response to Senator Bent-
12 sen's question, we could phase it in at 25 percent above 4
13 percent, then 50 percent, and however you want to do it.

14 Senator Hathaway. That depends a lot on what the Adminis-
15 tration's proposal is. It may come out that it does not have
16 it. The states will say the Administration's proposal will
17 probably go through.

18 Senator Hansen. It seems to me that nobody can object
19 to passage of legislation which would encourage compliance
20 with the law, and a reduction in error, and I think that
21 to the advantage of all of those other states, a great majority
22 are within their compliance with the law.

23 Senator Hathaway. I agree with you. I would rather wait
24 until we get the President's package on August 4th, and then
25 we will work on it. It probably will be at the same time that



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Carl wants it effective.

Senator Hansen. Are you not interested in offering inducements to states who comply with the law?

Senator Hathaway. I am. It is just what the form of the inducement might be.

The Chairman. Let me suggest this. It seems to me that Carl Curtis has a very good idea and in connection with this bill that is going to come out behind us, we ought to consider it.

I can anticipate that if this is agreed to we might have a whole lot of states come charging in here the minute they read about this all upset about the fact that after this temporary relief is gone they might not be able to comply for one reason or another, and we have plenty of time to act on this next year, because we are going to be working on the welfare reform bill.

So it seems to me that what we are trying to do and what we are all trying to do in this regard is in the Talmadge amendment -- and that, I think, will be effective because I think there is a substantial amount of leverage, and it is not too severe, of that penalty.

If it works, if we think it will work, we will have that to go by and there will be every reason to do what you want to do.

Senator Curtis. We will not report this bill out this



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morning. I am willing to lay it aside temporarily.

I have several proposals; I would like to mention one right now. This would be of help even if they send us a proposal and we adopt it, which I doubt will happen.. If we do, the states are going to be out, so we will not need it.

Whether the state or Federal government is running it, I have a proposal here to authorize on a state option basis, photo identification cards and that they have to pay it, and the Federal government will pay 75 percent and the state will pay 25 percent. The state does not have to do it if they do not want to. It is a 75-25 matching, in case they want to do it.

Senator Moynihan. The cost of the cards?

Senator Curtis. Yes.

Mr. Swoap. The administrative cost?

Senator Curtis. The cards, and it is optional with the states. We will not force it on any state.

Based on which you have told us many times about the Governor of Maryland, I think --

Senator Moynihan. I think it is a good idea.

Senator Curtis. All right.

The Chairman. All in favor, say aye?

(A chorus of ayes.)

The Chairman. Opposed, no?

(No response)



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now?

Mr. Swoap. The Federal government would currently share, if the fraud control activity were in the public assistance agency, at a level of 50 percent.

Senator Curtis. That would pertain to AFDC?

Mr. Swoap. Yes, sir.

The Chairman. They will pay 75 percent.

Mr. Swoap. Yes, sir.

Senator Curtis. My proposal is that I am investigating and prosecuting fraud. The Federal government pays 75 percent.

Mr. Swoap. That provision is identical to one that has been adopted by the Senate and the Food Stamp program.

The Chairman. Without objection, agreed.

Senator Curtis. I have one more, and that is to revise the earnings disregard. We have a provision that you disregard certain things and one-third of your income. There is no cut-off date and that is what makes some cases that is embarrassing in newspapers. Someone with considerable income could get it.

Dave, you tell us how we can revise it.

Mr. Swoap. There are basically two options before the Committee, as I understand it. The first one is the one that the Administration has put forward, which is to disregard -- let me discuss the current law for a moment.



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In current law, the first \$30 dollars and one-third of the remainder is first disregarded, then all work-related expenditures are disregarded. The Administration proposal is to substitute the following: the first \$30, then the reasonable and necessary child care, then a work-related expense, disregard that. It would vary with the states from 15 to 25 percent, and then one-third of the remainder.

There is a further alternative, and that is the alternative that was adopted by the Committee in 1973 as part of H.R. 5153, adopted by the Senate by that time, and that works as follows --

Senator Curtis. It never passed the House.

Mr. Swoap. It never passed the House. The Ways and Means Committee did not report it down.

That would work as follows: the first \$60 would be disregarded, then reasonable and necessary child care, then one-third of the remainder, up to \$300, and then one-fifth of the amount above that. That has, in the judgment of Senator Curtis, the virtue of tailing it out so that the very high income people do not qualify.

It saves approximately \$230 million on a full fiscal year basis as opposed to approximately \$120 million under the Administration proposal.

Senator Curtis. We put this disregard in originally so that someone on welfare would not have a disincentive for

1 enormous amount of money, because the earned income disregard
2 would end.

3 Senator Curtis. Was it there when we passed it last?

4 Mr. Swoap. No, sir.

5 Senator Curtis. What was in there?

6 Mr. Stern. As Mr. Swoap would describe, without the
7 four-month termination, without 150 percent automatic cut-off
8 the Committee amendment said \$60 plus a third of the next
9 \$300, and then a fifth above that, which brought it to a rather
10 quick termination.

11 It achieved the same aim without having a flat dollar
12 amount.

13 Senator Curtis. If we left out this four-month provision
14 and had it exactly as it passed before, what is your position
15 on that?

16 Mr. Stern. That is what we would suggest that the
17 Committee adopt. It is the same thing that you adopted before.
18 It saves \$230 million.

19 The only adjustment we would suggest is your definition
20 of full-time work was in terms of minimum wage. We would
21 suggest adjusting that.

22 Senator Curtis. I would modify them and take out the
23 four-month, if you want to adopt it the way it was before,

24 Senator Ribicoff. It becomes very obvious that any
25 welfare reform package is going to go deeply into the problems



1 of disregard is going to be one of the most hotly contested
2 matters of welfare reform.

3 Again, to try now, when we are going to have a full
4 package up on August 4th, to try to go into one of the most
5 important facets of welfare reform, I think we are wasting
6 our time.

7 Mr. Stern. The difference in this one case is this is
8 an item the President has recommended acting on, even before
9 welfare reform. He has not recommended it in exactly the same
10 form. His way would save \$119 million. The Committee way
11 would save maybe double that amount.

12 The Chairman. Here is something I want to get at. We
13 were trying to figure how we could handle all of this and fit
14 it into the budget. Were you anticipating a saving along this
15 line in meeting the budgetary problem?

16 Mr. Stern. We would say you would save at least as much
17 as the Administration bill on this. We assume that effective
18 date of January 1, 1978, which would save you under the
19 Administration bill about \$90 million.

20 The Chairman. So you anticipate something along this
21 line to help push the cost of this?

22 Mr. Stern. Yes, sir, primarily because the President
23 himself requested action on it.

24 Senator Moynihan. Mr. Chairman, I just want to say that
25 Senator Ribicoff has made such an important point. It is a

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case, however, that the Administration is asking for some change this year, but I would like to ask the Committee, would you give me a day so we can consult with the Administration in terms of Senator Curtis' proposal?

We do not want to put something this essential into welfare reform that the Administration does not support.

Senator Ribicoff. With all due respect to the Administration, they do not know what the hell they are doing on welfare right now. You say they wanted it, they do not want it. I would say they are changing their minds every day between now and August 1st.

Basically, this Committee is going to have the major responsibility no matter what the President sends up, and we all know it around this table.

So therefore, since we are going to have to wrestle with all of these tough problems, and it is going to be our responsibility to try to do a little piece of patchwork right now, I think we are grinding our gears. That is what is bothering me.

Time is too short for all of us, and too valuable, to be spending all of this time on stuff we are going to throw out.

The Chairman. I do not think we are talking about throwing this out. I think that the kind of things we are talking about here are things that are going to have to be done anyway



1 and if there is anything wrong with them, you put them in
2 place and we will have a chance to see if they work. In other
3 words, we will put a little pressure on these states to see
4 what they can do about quality control, and we will find out
5 if we can control these, hold down on the bad things.

6 The overall things we are talking about is how much, Mike?

7 Mr. Stern. If you do what the Administration --

8 The Chairman. That, plus the others, plus the Talmadge
9 amendment, the whole thing.

10 Mr. Stern. That was an additional \$40 million, \$36.5
11 million, plus \$90 million here, so that is \$126 million.

12 Senator Curtis. What do we allow for in our computation
13 for the Budget Resolution?

14 Mr. Stern. For the Budget Resolution, you allow \$450
15 million and our assumption, our bill, ran something like
16 this: in the SSI, you would approve amendments where perhaps
17 you would have \$20 million for the extension of the expiring
18 child care provision, probably about \$100 million in the area
19 of foster care and adoptions and child welfare. We assume
20 \$60 million is what the President asked for, and in fiscal
21 relief, we assume \$500 million on the plus side, but connected
22 with AFDC savings of \$70 million, the Talmadge amendments in
23 the Work Incentive Program and another part of this amendment
24 that deals with failing to report earnings would save about
25 another \$90 million. You would disregard another \$90 million.

1 So overall it would wind up being \$450 million.

2 To put it another way, you save more money from the
3 various savings provisions in the Moynihan amendment, so you
4 wind up with \$450.

5 Senator Curtis. Senator Moynihan has suggested he would
6 like a day; that is fine.

7 I have a couple of little things that are not welfare
8 reform that we took testimony on.

9 The Chairman. All right.

10 Senator Curtis. One is when a handicapped person, the
11 mentally retarded, work in a sheltered workshop their earnings
12 are not regarded as earned income and that cuts down their
13 allowance, and the House has a bill pending on that and I have
14 a bill pending on that.

15 Is there any opposition?

16 Senator Bentsen. I am very sympathetic to that. I
17 support it. It is an excellent amendment.

18 The Chairman. All in favor, say aye.

19 (A chorus of ayes.)

20 The Chairman. Opposed, no?

21 (No response)

22 The Chairman. The ayes have it.

23 Senator Curtis. My state would like an amendment that
24 says, in reference to Title XX, that of the money available,
that goes unused, the Secretary can allocate the balance,



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1 reallocate the unused portion in Title XX, the specific
2 amount. And if there are some states that do not use it, and
3 this proposal would allow the Secretary to put it out on the
4 same formula, would the states be willing?

5 The Chairman. Would they all have an equal chance to
6 participate in it?

7 Senator Hathaway. It would be pro rata.

8 Mr. Stern. That does cost money.

9 The Chairman. What is the cost of it?

10 Mr. Stern. I would guess about \$100 million.

11 Senator Curtis. That much?

12 Mr. Stern. The entitlement is \$2.5 billion; the spending
13 is about about \$2.4 billion. Certainly all of the rest of
14 the money would be used up.

15 Senator Curtis. I withdraw the amendment. I did not
16 imagine that there was that much going unused by the states.

17 Senator Bentsen. I have a couple of amendments, too.

18 The Chairman. Senator Dole?

19 Senator Dole. If I may go back very quickly, Title IV-A,
20 it just seems that apparently now you can only match --
21 matching is only available for private institutions under
22 Title IV-A and in many states who want to remove the children
23 from large institutions, they cannot move to another state or
24 some other public group because there is no matching.

25 We would simply allow Title IV money to be used for foster



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1 care maintenance for publicly supported homes of less than
2 25. It would become effective for AFDC children for the first
3 time after enactment of this bill.

4 There is no cost. The result is it would probably save
5 some money because small homes are less expensive to operate
6 than institutions.

7 We had some testimony here from a Mr. Weinberg on this
8 particular provision. If we made it effective after the
9 enactment bill, there is no cost. Otherwise, it will cost
10 about \$10 million.

11 Mr. Stern. My reaction to that is that I do not think
12 there is any experience in having a new benefit that did not
13 have any cost.

14 Senator Dole. This would be the first one.

15 Mr. Stern. It would cost money because you would be
16 broadening eligibility for matching and foster care.

17 Senator Moynihan. May I say, Mr. Chairman, that this is
18 in the spirit of this legislation. We are trying to pass
19 a bill, the main thrust is child care for children.

20 I think Senator Dole's amendment is in response to a
21 situation where there are places where there is no alterna-
22 tive.

23 Senator Dole. Particularly in smaller states.

24 Senator Moynihan. There are places where there is no
25 alternative.



1 The Chairman. All in favor, say aye.

2 (A chorus of ayes.)

3 The Chairman. Opposed, no.

4 (No response)

5 The Chairman. The ayes have it.

6 Senator Bentsen. Mr. Chairman?

7 The Chairman. Senator Bentsen?

8 Senator Bentsen. Mr. Chairman, on benefits under SSI
9 under the disability provisions, it is allowed to continue
10 receiving those benefits during a nine-month trial work period.
11 After that, eligibility for SSI payments and support services
12 terminates.

13 Only the severely disabled are eligible for SSI payments.
14 People with severe handicaps, severe epilepsy, that type of
15 thing.

16 The limitation of time is such that there is not sufficient
17 courage to get these handicapped people to take those jobs.
18 They are scared to take them if, at the end of that period of
19 time they lose their job, they cannot go back to SSI payments
20 unless they get an additional amount of disability, as I
21 understand it.

22 I would like to see that nine months extended to eighteen
23 months. I think that is an encouragement for them to take
24 the job, the severely handicapped to do it. The cost of that
25 would be \$3.1 million. That is estimated by the Social Security

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Senator Curtis. This is for the severely handicapped?
Senator Bentsen. That is right. Only to the severely handicapped.

Mr. Stern. You should recognize that this does make a distinction, a difference in the length of the work period, under the regular disability insurance program compared with SSI. Those are generally similar programs. This would be the first real difference.

Senator Bentsen. It is also my understanding that the Chairman of the Subcommittee of the House Ways and Means Committee has proposed to do this.

Mr. Stern. On the disability insurance program?

Senator Bentsen. Yes.

Mr. Stern. What happens now, if after nine months, the Social Security Administration finds that a person is still engaged in gainful activity, they are no longer considered disabled and you would be extending this period.

Senator Moynihan. I certainly would be sympathetic to an idea like that. I wonder if it is not something that we should have a day's hearing on, hear the Administration on and have a record on?

I do not feel that the Committee has enough information.

The Chairman. I would like to do that, because I am concerned -- your legitimate, meritorious case does not bother me. What does bother me is some of the things that



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1 happen in the states, and some of them are hard-pressed for
2 money. Before this program went into effect, it undertook
3 to put a great number of these AFDC cases --

4 Senator Bentsen. I recall that.

5 The Chairman. Under the SSI disability.

6 Frankly, from a fiscal point of view, that was a clever
7 thing for them to do. If someone was a little nervous, had
8 a little hypertension, put them on -- declare them disabled
9 and put them on the SSI and the disability programs, so when
10 the SSI went in, they were grandfathered under it.

11 I have known situations with people working that really
12 are not disabled at all, but they have the actual, active
13 effort of the state welfare department, in some cases, to put
14 those people on the rolls as disabled because they knew when
15 they did that that the SSI would take them off the states'
16 back too quickly, and that being the case, I think that one
17 of these days, I think that a proper reform would be that we
18 take a look at who is on these welfare rolls under SSI.

19 I think you would find that you have got some people
20 who really should work, and some that are already in fact
21 working whom you do not know about..

22 What you want to do for the legitimate case, I am for.

23 Senator Bentsen. All right. I will withdraw the
24 amendment with the understanding that hearings will be held
25 on it and we will try to put appropriate safeguards in and see



1 if we cannot accomplish this objective for the severely
2 handicapped.

3 Senator Dole. Could you do that to receive the addi-
4 tional nine months, they had to be certified to be in that
5 disabled category?

6 Mr. Stern. That is the crux of the issue: at the end
7 of nine months, is the person able, in the judgment of the
8 Social Security Administration, to engage in substantial,
9 gainful activity.

10 If he is at that point they say he is no longer disabled
11 and no longer eligible for SSI.

12 Senator Dole. If at that point there was some finding
13 that he was not, there is nothing wrong with the Bentsen
14 amendment.

15 Mr. Stern. If there is a finding, even under present
16 law, he would still be considered disabled.

17 Senator Dole. So there is no problem?

18 Senator Moynihan. We will have a good hearing on this
19 one. We will go around the country, if need be.

20 Senator Dole. On \$3 million, you could not go very
21 far.

22 Senator Bentsen. Mr. Chairman, with that understanding,
23 I will withdraw that amendment.

24 The other amendment, we have a serious problem along the
25 border and the state I represent, concerning the legal aliens

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1 that become permanent charges, public charges. And I would
2 like to redefine what a public charge is, and under the
3 Immigration and Nationalization Act, that would include
4 receipt of benefits from any public assistance program.

5 The problem we have is that the border communities,
6 along the Texas border for example, that that is not a wealthy
7 area, it is a poor area. It has the lowest per capita income
8 in the United States. Schools are overcrowded, the health
9 care facilities are strained. They have a very difficult
10 time supplying adequate services to their own citizens.

11 One of the attractions to immigrants there is the
12 generosity of the welfare benefits that they can receive in
13 this country, particularly as compared to their income in
14 Mexico, and the state should not have to bear that burden.

15 When immigrants become public charges, within five years
16 of entry, they may be deported, but nowhere do they define
17 "public charge" to say that that includes taking welfare
18 payments. There is no clear case about their being public
19 charges when they are taking welfare payments.

20 The House has a different approach. They would compute
21 the income of the sponsor to the alien for a maximum of
22 three years after entry. I think that is going to get you
23 into all kinds of problems, and it is very complex. It is a
24 very simple definition. If they go on public welfare, then
25 they are a public charge.

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If you have a condition that is created after they are in this country, some disability or something like that, that is excluded, of course.

The Chairman. Is there any objection?

Without objection, agreed to.

Senator Laxalt. As a matter of procedure, I wanted to add to what Senator Bentsen said in the same field, if I may.

This matter of legal aliens on SSI is a terribly difficult problem, as everybody on this Committee knows. We have had estimates indicating as much as \$62 million may be lost each year, not only from SSI, but most of these people also are qualifying in given states for Medicaid and supplemental benefits.

We have in mind offering, in addition to what Senator Bentsen has offered here, an amendment that would apply the residency requirements of the existing Social Security Act of 1936, which would impose a five-year residency requirement, excluding again the disabled and blind after they have once been here. That would be too harsh a result.

This, we think, would be a far better procedural result, because under the deportation proceeding, we are told that Immigration would have a very difficult and onerous time in attempting to enforce it. We are told by the Social Security people that if this were imposed as an additional requirement



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1 to the existing Social Security Act, it would not be burden-
2 some.

3 So I would like the Committee to consider this to be a
4 proposed amendment. I think it would clean up this alien
5 situation as best we can in this respect, and it would result
6 in the saving of a lot of money and clear the air.

7 I agree with Senator Bentsen that the House suggestion
8 in their bill, which would add to the sponsors' requirement,
9 is just going to be one mess administratively. It is going
10 to be a real can of worms.

11 The Chairman. Is there anybody here who can advise us
12 of what the Department's view of the suggestion would be?

13 Ms. Adaway. We had not heard of this suggestion for a
14 five-year residency requirement. I do not know what the
15 reaction would be to that. We can certainly find out, sir.

16 Senator Moynihan. Would the Senator be willing to hold
17 over one day?

18 Senator Laxalt. Of course, so we could get a reading
19 from the Department.

20 The Chairman. Senator Bentsen?

21 Senator Bentsen. This is for the Committee Report
22 language.

23 Texas is now funding a six-year program to provide employ-
24 ment, training for AFDC eligible women in community
colleges. The purpose of training is to provide skills which



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would allow a longterm viable employment to AFDC*eligibles.
I know the concern of the Chairman in that regard in trying
to help.

Before the Senate funded this program, they ran two
years of a demonstration project and found that AFDC eligibles
learned skills in community colleges that allowed them to stay
in viable jobs longer. Further, their employers were satisfied
with the kinds of skills that they had.

I would like to see the Committee Report language include
a recommendation to the Department of Labor that this approach
to training welfare recipients be supported by the Department
on a national scale. We have proven it in Texas.

The Chairman. Without objection, agreed.

Mr. Stern. Mr. Chairman, may I mention a couple of
correcting items on Senator Dole's amendment for small
institutions, to get your okay on this?

We would want to exclude penal institutions. I know it
is not contemplated, but I think you have to put it in the
language. And the other thing, we would be talking only about
the maintenance payments themselves, the foster care payments
themselves.

Second, do I understand correctly that the Committee has
tentatively adopted basically the staff recommendations on
foster care and adoption, subject to any change that was made
in Senator Dole's proposal as agreed to today?



1 The Chairman. That is right.

2 Senator Hathaway. Would that include the needs test?

3 Mr. Stern. A test for adoption of 150 percent of the
4 state median income, the same test you use for social services
5 now, if that is what you are referring to.

6 Senator Hathaway. Yes.

7 I do not know what the purpose of it is. What we are
8 providing this money for is to make sure that foster children
9 get in some home. I really do not think we care about what
10 the income level is of the family receiving the foster child.

11 Why would you have a needs test imposed when our real
12 purpose is to get the foster child into a family that would
13 adopt the foster child?

14 Mr. Stern. The question, really, is a matter of public
15 policy. Do you want it in the act to be kind of a matter
16 of right that people who adopt hard-to-place children get
17 adoption subsidies? That is one policy.

18 The other policy option, implicit in having this limita-
19 tion, is something to help lower income families to adopt a
20 child who otherwise would be more expensive than a normal
21 child, and a family with an income of \$25,000, let's say, who
22 is willing to adopt a child of this sort, up to now there has
23 been no Federal funding. Should there be Federal funding as
24 a matter of course in all cases of subsidized adoption?

25 Senator Curtis. I think what we have done is the correct



1 course.

2 The Chairman. Those in favor of going on with the
3 staff recommendation in this regard, say aye?

4 (A chorus of ayes.)

5 The Chairman. Opposed, no?

6 (A chorus of nays.)

7 The Chairman. The ayes seem to have it.

8 Mr. Stern. Do I understand that you have approved the
9 fiscal relief proposal with the various modifications?

10 The Chairman. All those in favor, say aye?

11 (A chorus of ayes.)

12 The Chairman. Those opposed, no?

13 (No response)

14 The Chairman. The ayes have it.

15 Senator Hathaway. What else did we approve besides the
16 Dole amendment and what we just voted on? How about the
17 tracking and the report and the rest of it?

18 Mr. Stern. Under the Dole amendment, the Dole amendment
19 takes quite a different approach than the House bill. It has
20 modified the additional funds to be available child welfare
21 services, except not for foster care maintenance payments
22 themselves. There would be no series of requirements that
23 the states use the additional money to establish any system
24 as the House bill contemplates.

25 Senator Moynihan. I just want to say, Mr. Chairman, it

1 is a matter of some importance. We would hope -- I would
2 hope -- that the staff would be, in fact, marking up the
3 Administration's bill, making the changes that we are making.

4 Mr. Stern. That is correct, but there are almost no
5 changes in Title IV, part B, compared with present law.

6 Senator Moynihan. I wanted to make it clear for Senator
7 Hathaway.

8 Mr. Stern. Two changes: the 75 percent matching, rather
9 than the formula now, you cannot use any money for foster
10 care maintenance payments. Those are the only two things in
11 present law that you have agreed to.

12 Senator Hathaway. How about the report to the Committee?
13 That will remain in?

14 Senator Dole. Yes.

15 Senator Hathaway. The tracking.

16 Mr. Stern. The requirement that states set up tracking
17 and information systems would not be a part of this. It would
18 not be a requirement. They could use the money to do it, but
19 not a requirement.

20 Senator Hathaway. I would think that we would have it
21 a requirement. It is going to be very important for us for
22 future legislation. Otherwise, how are we going to find out
23 the data that we need to legislate in this area?

24 Mr. Stern. It would not be a report from the Secretary
25 of HEW. The one requirement that you would be agreeing to,



1 the states would have to collect statistical information;
2 that would be printed.

3 Senator Hathaway. That is in, tracking.

4 Mr. Stern. Usually, when people talk about tracking,
5 they are talking about putting up a system for organizing
6 what you know about children who are in foster care and
7 keeping track of them so that you know six months later where
8 they are, and so on.

9 While this may well be something you want to put in the
10 Committee Report as a good thing to use the money for, you
11 would not require that they use the money for that particular
12 purpose.

13 Senator Hathaway. I would rather require that they do.
14 It seems to me we need that. Otherwise, we are dancing in the
15 dark. We do not know what the situation is in the individual
16 states unless we have a tracking system to find out where
17 these children are and what progress has been made and how
18 many there are, and so forth.

19 Senator Dole. How much money are we talking about?

20 Mr. Stern. The Administration recommended that an
21 additional \$63 million be provided in fiscal '78 and earmarked
22 basically for setting up that and certain other systems.

23 They are outlined on page 10 of this document. They would
24 require that a case plan be developed for each child --

25 I am sorry. On page 14, the beginning of the page,

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1 all the requirements in the Administration bill of what
2 that extra \$630 million would be used for, statewide informa-
3 tion system, case review system, service program, procedural
4 safeguards.

5 Senator Hathaway. It seems to be a sensible recommendation. ✓

6 Senator Moynihan. Most recommendations do sound sensible.

7 You find out later that they call up reports; nobody read
8 them. I think our report should say we looked to the states
9 to do this job well and the Federal government is not going
10 to direct them at this point as to what constitutes best
11 performance, but we are going to watch what they do if they
12 do not. If it comes out that there really is a big gap
13 between what people think can and ought to be done and is
14 being done. Then they invite the Federal government to come
15 in.

16 Right now, I think the burden of proof is on the Federal
17 government. We know nothing in this field. The states have --

18 Senator Dole. The states are doing most of it anyway.
19 The very objective that Senator Danforth has raised so well,
20 he has had firsthand experience in some of the participation.
21 He just came from that, and Senator Danforth, of course.
22 So I think we could do it in the report.

23 Senator Hathaway. Even if you do it in the report, if
24 you do not make it mandatory, you are not going to get the
25 data back. All of the states think that they are doing a good

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1 job in this regard. If we are going to have any input, we
2 really are going to have to find out if they are.

3 Senator Dole. We would be the tail wagging the dog.
4 We are putting in a little bit of money, but we are going
5 to require almost as much as the Federal government could
6 pump, an equal amount fo spent for really maintenance, is
7 what it boils down to, plus burdening the states with a lot
8 of regulations.

9 Senator Hathaway. Why do we not pass it over until
10 tomorrow and see if we could not modify some of these?

11 Senator Moynihan. I will talk to you about it.

12 The Chairman. I think that is all that we can do today.
13 I suggest we come back tomorrow, at 9:30 tomorrow.

14 (Thereupon, at 12:40 p.m., the Committee recessed, to
15 reconvene at 9:30 a.m. on Friday, July 29, 1977.)
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