

EXECUTIVE SESSION

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FRIDAY, JULY 29, 1977

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

The Committee met, pursuant to notice, at 9:40 a.m. in room 2221, Dirksen Senate Office Building, Hon. Russell B. Long (Chairman of the Committee) presiding.

Present: Senators Long, Talmadge, Byrd, Hathaway, Hansen, Dole, Packwood, Roth, Laxalt and Danforth.

The Chairman. Perhaps the first order of business might be to consider some of the amendments to Senator Dole's idea. He is going to have to go to another Committee meeting in short order.

Senator Dole. They have cancelled the farm conference. I have no problem.

I think there is one little amendment when Senator Hathaway gets here, on the tracking that we reached some agreement on yesterday.

Senator Moynihan. That, I think we should wait for it until Mr. Hathaway is here.

The Chairman. I have a letter from Carl Curtis. He says he cannot be here today, but he says, "I think what has been

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1 done to prevent fraud and make collections has been splendid.
2 I think that we should authorize access to several difficult
3 kinds of records to verify eligibility data, such as Social
4 Security wage base data, school records, and payroll data.

5 "Don Swoap is prepared to explain these. I think it
6 would also be wise to ask Bill Galvin what he thinks about it,
7 because I have a high regard for his opinion."

8 Do you want to discuss that?

9 Mr. Swoap. Yes, Mr. Chairman. The amendment that Senator
10 Curtis is concerned with at this point has to do with what has
11 been in the past some difficulty in securing access to Social
12 Security numbers, Social Security wage base records, in order
13 to provide for verification on eligibility data on the part
14 of local state welfare agencies.

15 This is very similar to what the Secretary, Mr. Califano,
16 has now been undertaking on his own, what is called Operation
17 Match -- to match up eligibility records with payroll data
18 and Social Security wage base data, things of that kind.

19 This would simply authorize the states to do that, and
20 again provide 75 percent Federal funding should they undertake
21 that test.

22 Senator Talmadge. It seems to me that is absolutely
23 necessary to determine the eligibility of a recipient.

24 Mr. Swoap. Yes. As Senator Moynihan has observed, there
25 is no deleterious effect on a legitimate recipient. It is only



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1 the people who are trying to defraud the system.
2 Senator Talmadge. Is there any objection to that?
3 Senator Moynihan. Mr. Chairman.

4 Senator Talmadge. Senator Moynihan.
5 Senator Moynihan. I am disposed to do this. It is a

6 question of opening up records, and I wonder if the Administra-
7 tion has any view.

8 Senator Talmadge. Can someone speak for the Administra-
9 tion? If so, stand up and speak loudly and clearly.

10 Senator Moynihan. The question is a proposal made by
11 Senator Curtis that Social Security records for one particular
12 event, the records that you keep be made available to persons
13 looking into welfare matters, a routine check of the kind that
14 is indicated by Secretary Califano's testimony the other day
15 that they find here in the District of Columbia government
16 employees also collecting welfare. In my city, in Brooklyn,
17 the same thing happened.

18 The Committee is disposed, I think, to say that Social
19 Security records should be available for this kind of checking
20 purpose, but before we actually agreed on that, it seemed to
21 me that we should ask the Administration.

22 Ms. Adaway. Senator, I am afraid I do not know the answer
23 to that. I can find out for you.

24 Senator Moynihan. I wonder if you would have the kindness,
25 Mr. Chairman, I suggest we make a decision now that we vote on

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1 the possibility.

2 Senator Talmadge. Any objection to agreeing tentatively
3 to the Curtis amendment? Without objection, agreed to.

4 What is next?

5 Mr. Swoap. There is one other matter Senator Curtis
6 referred in the letter to Senator Long that would simply
7 require the Inspector General to collect enumerated fraud data.

8 Again, as you know from the hearings before this Committee,
9 the Department of Health, Education and Welfare has incredibly
10 little data on what the incidence of fraud or the error rate
11 is in a number of states.

12 This would require the Inspector General to collect data
13 at various levels of a fraud investigation or fraud prosecu-
14 tion, the number of investigations, the number of prosecu-
15 tions, the number of collections, things of that kind.

16 The Chairman. Is there any objection? Without objection,
17 agreed.

18 Does anybody else have any other amendments to offer to
19 this bill?

20 Mr. Stern. Mr. Chairman, there are still a number of
21 things which are in the staff document, if you want to go
22 through those.

23 Senator Moynihan. I have about five things, Mr. Chairman,
24 from Senators Church, Senator Riegle, Senator Cranston who
25 asked to have them brought before the Committee. If we go

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1 through them quickly, you may find that they take time, or
2 that they do not.

3 Shall we go down the line?

4 The Chairman. Yes.

5 Senator Moynihan. Senator Cranston asked us if we would,
6 in effect, reconsider the question of Medicaid eligibility for
7 subsidized adoptions. The point is that we have agreed that
8 Medicaid eligibility of pre-existing conditions, and the
9 question that Senator Cranston asked with a case of severely
10 handicapped children, the possibility of subsequent conditions
11 coming along is real. He is concerned about making adoptions
12 attractive. He asked that we reconsider.

13 Mr. Stern, do you have a view on this?

14 Mr. Stern. You should be aware that having a medical
15 disability is only one of the possibilities for a child being
16 hard-to-place. The other reasons are that he is a member of
17 an ethnic group, so he is difficult to place, a member of a
18 sibling group. There are a number of different things other
19 than medical.

20 Senator Moynihan. Age?

21 Mr. Stern. Yes, an older child.

22 You would be considerably broadening Medicaid eligibility
23 to say that every child who gets a subsidized adoption would
24 have Medicaid.

25 Senator Moynihan. Mr. Chairman, do you want to broaden

1 this Medicaid eligibility, or do you not?

2 Senator Dole. On hard-to-place children?

3 Senator Moynihan. Yes. On any children whose adoptions
4 are being subsidized.

5 Mr. Stern. Hard-to-place is a term of art in the bill.
6 It is defined to include more than medical disabilities.

7 The Chairman. What is the will of the Committee? I have
8 no objection to it.

9 Senator Moynihan. Mr. Chairman, I think it is consonant
10 with the purpose of this bill, which is to encourage adoption
11 and states pay part of the cost. There is not going to be any
12 great rush of adoptions because we pass the bill.

13 I think it is the thing to do.

14 Senator Dole. Would this extend beyond the so-called
15 handicapped child?

16 Mr. Stern. Yes.

17 Senator Moynihan. A child whose adoption is subsidized.

18 Senator Dole. What is the cost?

19 Mr. Stern. I do not know the answer. Perhaps the
20 Department can speak to that.

21 Do you know what portion of the children are hard-to-place
22 because of medical disability and what are not?

23 Ms. Siegal. No, we do not.

24 Senator Moynihan. Would you like to make a judgment,
25 pending our getting this information over the week-end?



1 Senator Dole. I am just curious. Does the Administra-
2 tion support this?

3 Senator Moynihan. Yes, the Administration supports this.

4 Senator Dole. I do not have any objection.

5 Senator Moynihan. The House supports this too.

6 The Chairman. Without objection, agreed.

7 Senator Moynihan. Mr. Chairman, thank you.

8 Senator Church has brought to our attention the question
9 of, for old persons who are receiving SSI benefits, the ques-
10 tion has arisen about when they are involved in a disaster
11 their SSI benefits are suspended because they get disaster
12 benefits. It does not seem very sensible.

13 It does not happen very often, but it has happened, and
14 were you Senator Church, I can understand why.

15 Mr Stern.

16 Mr. Stern. Mr. Humphreys?

17 Mr. Humphreys. The amendment, as we understand it, would
18 treat this particular form of income in the form of disaster
19 assistance and also treat interest on disaster, interest
20 payments that may have been in the bank for a period of time,
21 differently than other forms of income.

22 There have been some SSI programs, as originally enacted
23 basically it is designed to treat all income more or less the
24 same. It is a program that provides benefits according to
25 how much other income you have. If your other income goes

1 up, your benefits under this program go down, and I guess
 2 our position would be, our feeling would be that there is no
 3 really good reason to treat this one form of income any
 4 differently than other types of income.

5 There has been a tendency to adopt a number, propose a
 6 number of amendments, to say that this specific kind of income
 7 ought to be treated specially. We think that is probably some-
 8 what inconsistent with the basic purpose.

9 Senator Packwood. The kind of disaster relief that
 10 Frank is talking about is actually reimbursement. They are
 11 not talking about further income because he has been in a
 12 disaster.

13 Senator Moynihan. That would be Senator Church's view.
 14 It is not income. It is replacement of something that you
 15 lost. It is cash receipt. It is technical.

16 I certainly agree it is a departure from our practice,
 17 but it strikes me as not an unreasonable one and hopefully
 18 will never apply to anybody.

19 Mr. Humphreys. We think that the amendment also includes
 20 if there is a large payment, instead of using it to immediately
 21 repurchase a new house or something, that it is put in a
 22 bank, it would exempt the interest that is drawn on this
 23 payment.

24 I think it is a period of nine months, which can be
 25 extended, as we understand it.

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1 Senator Packwood. I do not have a philosophical objec-
2 tion. It is so picayune in the scheme of things, if we are
3 talking about exempting disaster relief if they put the money
4 in the bank, the interest would offset against the SSI is not
5 worth the trouble.

6 The Chairman. All in favor of the amendment, say aye?

7 (A chorus of ayes.)

8 The Chairman. Opposed, no?

9 (No response)

10 The Chairman. So ordered.

11 Senator Moynihan. Mr. Chairman, Senator Curtis has an
12 amendment that Senator Riegle would like also to call atten-
13 tion to. It is technical, but it makes sense.

14 Until recently, states have been allowed to reduce AFDC
15 benefits when the eligible child is living with relatives who
16 are not themselves eligible for welfare, but they pay some-
17 thing. In effect, they pay something, because the child is
18 being supported, and they prorate the cost.

19 A recent court ruling has voided this practice. It was
20 a prudent and sensible practice, and the State of Michigan
21 wants it back. Senator Curtis wants it back. My state thinks
22 the same thing.

23 In effect, it is providing care for a child at less than
24 the fixed standard rate because there is a special arrange-
25 ment. It is an economical thing and keeps children with

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1 relatives.

2 Does staff have a view on this?

3 Senator Dole. Regardless of the economic status of the
4 relatives?

5 Senator Moynihan. Yes. The point is, this is a situation
6 where they pay less than if the child were living with his own
7 parents. This is not a situation where the state objection
8 has been that the state is paying less than it should be
9 paying. These things work out. The arrangements are workable,
10 otherwise, they will not be there.

11 Mr. Swoap. Basically, it is a system of pro rating,
12 Senator Dole, so when the child lives in the home of an
13 ineligible grantee, the caretaker is not eligible, you pro
14 rate the grant, simply to cover the needs of the children.

15 Senator Dole. It sounds like a winner.

16 The Chairman. All in favor, say aye.

17 (A chorus of ayes.)

18 The Chairman. Opposed, no.

19 (No response)

20 The Chairman. So ordered.

21 Senator Moynihan. There is a question on tracking, which
22 I think we want to wait for Senator Hathaway.

23 Senator Dole. I think it is agreed upon.

24 The Chairman. I do not think that he would object if we
25 agreed to it. If we voted it down, he might object.

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Senator Moynihan. Are we prepared to vote?

Senator Dole. Ms. Siegal is here to speak for the Department. Have they reached some agreement yesterday?

Ms. Siegal. An informal agreement, yes.

Senator Dole. Is there something in writing that could be submitted to the Committee?

Ms. Siegal. There is an amendment that Senator Hathaway was planning to offer. I understand from the staff he is still tied up at the White House.

Senator Moynihan. Why do we not wait for him?

The Chairman. All right.

Do we have any other amendments?

Senator Moynihan. I have one more thing, which is that Senator Curtis -- I do not think he would mind us taking it up.

For reasons I do not fully understand, the Administration came in with a proposal at the tail end, or tacked on to this whole other business of adoption, foster care, a proposal to change the income disregard, that endless metaphysical question that I thought we were going to spend next year on.

But they have made a proposal which cuts back the disregard and Senator Curtis has made a proposal which cuts it back even more. Do you want to hear about that?

The present law, as you know, has a \$30 and a third under Committee provisions, plus itemizing all work expenses, a

1 break even point of \$840 a month.

2 The Administration proposes that you disregard the first
3 \$30 earned and then childcare expenses and then 15 percent of
4 gross earnings, then a third of remaining earnings, and this
5 brings the break-even point, which they argue is better. It
6 is a higher marginal rate.

7 Senator Curtis has proposed a simpler proposal of dis-
8 regarding the first \$60 earned, then child care expenses,
9 then one-third of earnings, up to \$300 and one-fifth of
10 earnings above \$300. Senator Curtis' proposal would cut
11 back a higher marginal rate. We would have a break-even point
12 of about \$8500, I believe.

13 I think the Senators should know that Mr. Stern has also
14 calculated some savings of the Administration's proposal.
15 They are in our budget calculations of how we are going to
16 pay for our overall program.

17 Mr. Swoap. Senator, as I recall, one of your concerns
18 was what is called the kick-out point would be relative to
19 the low income budget in the state of New York and the needs
20 standard in the state of New York.

21 Under the Curtis proposal, which I might point out to the
22 Committee is exactly what the Committee did in 1973, as a
23 part of H.R. 3153 that was adopted by this Committee and by
24 the full Senate.

25 The so-called kick-out point is \$10,900 for a family of

1 four under the Committee proposal which is now the Curtis
2 proposal and that is almost exactly the low income budget in
3 the state of New York. So it comes out almost exactly at the
4 same place.

5 Senator Moynihan. I have no problem with the proposal.
6 The Administration might want to speak on this and is prepared
7 to speak on it, Mr. Chairman.

8 Ms. Adaway. Senator, at your request yesterday, I asked
9 staff to calculate the effect under the Administration proposal,
10 the Curtis proposal and the Committee proposal and to see if
11 we could get some numbers to tell us what the break-even point
12 would be, the points at which people would no longer be
13 eligible, the effective tax rates under each of these proposals
14 and how abruptly the welfare benefits would begin declining
15 with each additional \$100 of earned income, and we put together
16 some numbers -- rather hastily, I admit.

17 If the Committee would permit us, I can give you what
18 we have now. I would like to be sure and check them once
19 again and submit them early in the week.

20 Let me begin first with the break-even points. They
21 calculated for me under the Curtis and Committee proposals,
22 it would be about the same effect in terms of the break-even
23 points. States which provide now monthly benefits of about
24 \$200 or less, that would be about 12 of the states for AFDC,
25 for people without other income in those states, the break-even



1 point would be about \$300 or less, total income. In those
2 states in which -- I am sorry, about \$300 under the Curtis
3 proposal, \$360 under the Committee proposal. -- Where the
4 benefit in the states is between \$200 and \$300, about 15
5 states, the break-even points would be under \$450 and \$485
6 and where the benefits are between \$300 and \$400, about 18
7 states, the break-even point would seem to be under \$610,
8 respectively.

9 The Administration's proposal would operate in a way that
10 would continue the benefit to total higher income levels
11 using work-related expenses of a 15 percent or 25 percent.
12 That was range, given in the Administration proposal. The
13 break-even point would turn out to be a little bit higher,
14 with states paying under \$200, the break-even would turn out
15 to be between \$426 and \$530. Where the benefit levels are
16 under \$300, it would turn out to be \$619 versus \$767, and
17 where benefit levels are about \$400, those break-even points
18 would go as high as \$812 or \$1,000.

19 The effective tax rates under these proposals, the
20 second question that was asked, would obviously also differ;
21 the monthly earnings between \$60 and \$360, the effective tax
22 rate on earnings under the Curtis and Committee proposals
23 would be 73 percent. For monthly earnings above \$360, it
24 would be about 86 percent. Those would be the effective tax
25 rates. Under the Administration proposal using two different



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1 calculations -- 15 percent for work-related expenses, or
2 25 percent, the effective tax rate would be 58 percent on
3 earnings over \$30 and a 25 percent yielding an effective tax
4 rate of 48 percent.

5 Senator Moynihan. Mr. Chairman, I wonder if this is
6 not something large enough that we would want to get this in
7 writing and take it up on Monday when Senator Curtis is here.
8 I do not know why HEW fooled around with the fundamental ques-
9 tion as an afterthought, almost.

10 Mr. Stern?

11 Mr. Stern. The Committee proposal was designed particu-
12 larly to result in a fairly quick cut-off once earnings got
13 above \$360 above child care expenses. That high tax rate was
14 a deliberate decision -- 86 percent would be 80 percent rate,
15 plus 6 percent Social Security and was a deliberate decision
16 in order that people in the middle-income range not be
17 eligible for AFDC.

18 Senator Talmadge. The maximum alternative is \$10,900 a
19 year. What is the alternative proposal of the Committee staff
20 and the alternative proposal of the Administration?

21 Mr. Stern. That figure is what the Committee did in 1973
22 which is the staff proposal. That assumed \$200 a month child
23 care. If the child care expense were less than that, it would
24 be correspondingly less.

25 I just do not know offhand what the Administration



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percentage figures would be. I suspect that they would be rather higher than that, because their effective tax rate is so much lower.

Senator Byrd. Would Senator Talmadge yield?

Senator Talmadge. I yield.

Senator Byrd. Senator Talmadge's question was that Senator Curtis' proposal was \$10,900. What is the Committee proposal and what is the Administration proposal vis-a-vis the Curtis proposal?

Mr. Stern. The Committee proposal really is the same as the Curtis proposal.

Senator Byrd. What is the Administration proposal?

Ms. Adaway. It would, of course, vary with what the work-related expenses are and a variety of things. One of the figures they gave me last night was that the highest amount which a family would still have and could still be getting benefits under the Committee proposal, of 15 percent, I think, was about \$14,000. That was with a large family and a high state.

Senator Byrd. Under the Administration proposal it would be approximately \$14,000?

Ms. Adaway. With a large family in a high benefit state.

Senator Byrd. Thank you.

The Chairman. It seems to me that we are going to have to find a way to provide a large amount of money that if you



1 take the accumulated benefits and it works out to a large
2 amount that you are paying people who are not working, then
3 you try to phase it out -- for example, if you get up to
4 where you are paying \$5,000 and you are trying to phase it
5 out, by the time you get to \$10,000, then you have a 50
6 percent phase-out on the average.

7 If you phase out gradually in the first part of it, then
8 you try to phase it out -- if you are trying to stay with the
9 \$10,000 figure you have to phase out more sharply, so it
10 becomes very discouraging to the person who is the proposed
11 beneficiary.

12 Now, you can reduce the steepness of that if you work
13 it to where you are subsidizing the job, as with that tax
14 law we passed, the jobs credit which is now the law in
15 private employment, so that half of it is being phased out
16 on the employer's side and then you only have the other half
17 to phase out on the employee's side. You do not have to
18 phase more sharply.

19 It does not look so very discouraging to people to find
20 that they are losing 80 percent -- you said 86 percent?

21 Mr. Stern. That is correct.

22 The Chairman. That is a very sharp phase-out ratio,
23 86 percent.

24 We ought to find a way where we can do it better than
25 that.



1 Now, give me those figures again, as to how that ratio
2 works out.

3 Mr. Stern. The 86 percent?

4 The Chairman. How the phase-out works.

5 Mr. Stern. First you deduct the expense of child care.
6 Then you deduct the first \$30 per month earned --

7 The Chairman. Child care, then what?

8 Mr. Stern. Then you deduct the first \$30 per month
9 earned.

10 The Chairman. Yes?

11 Mr. Stern. That is at 0 percent. For the next \$300
12 earned, you deduct one-third from the first \$300 above child-
13 care and above \$30. For the next \$300, you deduct two-thirds.
14 In other words, each dollar counts as a 67 percent reduction.

15 Above that next \$300, it is 80 percent. I am sorry.
16 I should have said \$60 instead of \$30. The first \$60 is taxed
17 at 0 percent. The next \$300 is taxed at 66 2/3 percent and
18 above that, that is to say, above \$360, it is at an 80 percent
19 rate.

20 I presume the Department also adds 6 percent for Social
21 Security. That is where they arrived at 86 percent.

22 The purpose of that was to bring about a rather rapid
23 cut-off from welfare once earnings reached above a certain
24 point. Because of the way the income is distributed typically,
25 you start getting into a very large group of potential recipients



1 once you start extending into the \$8,000, \$9,000, \$10,000
2 range. This is the Committee's decision on the way to deal
3 with that, to keep AFDC basically a program for low-income
4 people.

5 Senator Moynihan. Mr. Chairman, we could accept the
6 Committee's proposal. It would meet the Administration's
7 purposes, would it not?

8 Mr. Stern. They are both aimed at ending the present
9 situation of open-ended expenses. The Administration proposal
10 is child care plus a fixed percentage. The Committee approach
11 is child care plus a fixed dollar amount.

12 The Committee approach is a less generous disregard.
13 Both of them are similar and they want to eliminate the open-
14 endedness.

15 Senator Talmadge. That is the big problem that we have
16 had in Food Stamps. We have a series of deductions where you
17 pyramided those deductions. We found that a family of four
18 with incomes as high as \$16,000 a year could take their
19 deductions and still get Food Stamps.

20 That is a loophole in these laws that we have tried to
21 plug with Food Stamps. I think we have to do the same thing
22 with SSI. The idea of someone earning as much as \$14,000 a
23 year and still being eligible for SSI is somewhat repugnant
24 to me.

25 Some 80 percent of the people in the rural counties in



1 my state do not earn anything like that much. If you make
2 it more attractive not to work than it is to work -- I do not
3 know what this country is coming to.

4 The Chairman. Which proposal do you prefer, Senator
5 Talmadge?

6 Senator Talmadge. It seems to me that this \$10,900 is
7 reasonable. I do not understand why it should be higher than
8 that.

9 I think most people would prefer to work if you give them
10 an opportunity to do so. This Work Incentive program, as
11 you pointed out, is working. That is what I would like to see
12 emphasized, rather than loafing.

13 Senator Hansen. Mr. Chairman, in support of the position
14 that Senator Talmadge takes, I read recently about the number
15 of poor people in this country, those below the poverty level --
16 I have forgotten. It may have been about -- in one area, as
17 I recall, it was 27 percent. When they added together the
18 different programs, Food Stamps and Medicaid and other benefits
19 that were given, and subsidized housing, it dropped down to
20 under 10 percent, as I remember.

21 I think the point that Senator Talmadge makes is very
22 relevant.

23 Senator Talmadge. One of the big problems that we have
24 here is that we have someone who washed the windows in my
25 apartment. The bill was \$49. It took probably half a day,



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maybe less, and the maids left a note there, how much I owed this particular individual, \$49, and he preferred to have it in cash. I gave him a check for it.

What they do, in many instances like this, they will not work if you give them a check. They demand cash for what little work they do.

In my area and many areas of Georgia, you cannot get anyone to work at any price, and yet the unemployment level is very high, and you try to hire one of them and they will not work because, as you pointed out, when they get Food Stamps and when they get public housing, when they get free medical care and to odd jobs like this man did, washing my windows for which he charged me \$49 and he wants that in cash, not in a check, why work?

I would rather hunt and fish than work myself, but I cannot afford it.

The Chairman. Why do we not agree to accept the amendment?

Senator Moynihan. The Committee's amendment?

Mr. Stern. This would be the same thing that the Committee did in 1973. The minimum wage levels are adjusted to what they are now. What you had is a definition of what constituted full-time work.

Senator Hansen. This is the Curtis amendment.

The Chairman. We can accept that. In Conference, I assume



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1 we can cut back to the Administration position if you wanted
2 to.

3 Mr. Stern. I think so. It is between present law and
4 this position.

5 The Chairman. All in favor, say aye.
6 (A chorus of ayes.)

7 The Chairman. Opposed, no.
8 (No response)

9 The Chairman. The ayes have it.

10 Senator Moynihan. Senator Hathaway is here.

11 Senator Hathaway. This amendment, which I think has
12 been stipulated, would state that the states shall utilize
13 such funds as they determine necessary to comply with the
14 statistical report required by Section "blank" of this
15 Act.

16 What we want states to comply with are four things:
17 the child's legal status, voluntary commitment, court order,
18 or what; demographic characteristics, such as age, sex, race;
19 child's location, whether in a home or an institution, where
20 they are; and the length of stay that they have been in care.
21 Those four things. I do not think that would be very difficult
22 for any state.

23 Senator Dole. That was the result of discussions on the
24 staff level yesterday. I see no objection to keeping track of
25 the children. That was demographic, not democratic

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1 characteristics, was it not?

2 Senator Hathaway. They will, all be Democrats.

3 The Chairman. All in favor, say aye.

4 (A chorus of ayes.)

5 The Chairman. Opposed, no.

6 (No response)

7 The Chairman. The ayes have it.

8 Senator Moynihan. Mr. Chairman, I have a technical
9 amendment.

10 There are a number of states that would be in some
11 difficulty in this law because of the cap that has been put
12 on Title IV-A foster care, and there is now going on an
13 administrative dispute between states and HEW over eligibility
14 of some of the claims, and we would like the report just to
15 show that the Subcommittee thinks the report should show
16 that HEW should be reasonable and not exclude as a possible
17 ceiling any of the disputed costs. They should wait until the
18 claims have been adjudicated and they know what actually
19 turned out to be the number permitted, and that be the cap
20 that is established, not to abuse that possibility.

21 The second thing is that some of the states have been
22 playing a little bit loose with the question of maintenance
23 costs in foster care institutions, and HEW wants to tighten
24 that up and it should tighten that up, but we would like the
25 report to say that a certain reasonableness should be displayed

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1 with respect to those existing institutions. If the language
2 would show that, that would solve a lot of problems. It need
3 not be statutory.

4 Mr. Stern. Do you have in mind maybe it would sort of
5 phase in the new requirements?

6 Senator Moynihan. Phasing in.

7 That finishes Subcommittee's work, Mr. Chairman.

8 Mr. Stern. Mr. Chairman, could we clarify one thing on
9 this Medicaid eligibility? This latter matter -- I certainly
10 would recommend that you limit foster care payments to the
11 maintenance payments themselves, but I can understand that
12 there are institutions now that are getting what you think
13 should only be maintenance payments. They are getting payments
14 to what amounts to services in addition, and the Administra-
15 tion's bill recommends rather clear language in present law
16 on that.

17 That should be the way to go, suggesting that they be
18 given adequate time to phase in.

19 Senator Moynihan. A reasonably adequate time to make the
20 transition.

21 The Chairman. All in favor, say aye.

22 (A chorus of ayes.)

23 The Chairman. Opposed, no?

24 (No response)

25 The Chairman. The ayes have it.



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1 Senator Moynihan. One last thing, just to make sure
 2 what we did. I thought we agreed to Senator Curtis' amend-
 3 ment. We were agreeing to access to Social Security matters.
 4 His amendment talked to more things. We want to be clear
 5 about that.

6 I am not sure whether there are records.

7 Senator Talmadge. I think that what the Committee needs
 8 to do is to authorize them to ascertain the income of the
 9 individual, whatever is necessary to ascertain that income
 10 is what we ought to do.

11 You ought not to preclude the government from ascertaining
 12 whether someone is eligible for welfare benefits.

13 Mr. Swoap. That is correct, Senator Talmadge. If I may
 14 interject, also it is to verify other kinds of eligibility
 15 data, such as the number of children claimed, so that school
 16 records could be accessed to determine the existence of the
 17 enrollment.

18 Senator Talmadge. Let me tell you how we ridiculous we
 19 have gotten now. Did you know a parent cannot get his children's
 20 grades unless the student permits it? We have enacted that
 21 fool thing into law.

22 My press secretary is enrolling his son down there in a
 23 school in Virginia right now. He took two days off to take
 24 him down there last week. One of the things he had to sign
 25 was a waiver to permit the parent to receive his son's grades.

1 That is the most absurd thing I have ever heard of in
2 my life.

3 The Chairman. How did that come to happen?

4 Senator Talmadge. Some God-damned fool -- Freedom of
5 Information, which I voted against.

6 Senator Moynihan. I think it was my predecessor who did
7 that.

8 Senator Talmadge. I think that is correct. I voted
9 against it.

10 The Chairman. I hope someone will move a bill in a hope
11 to repeal that.

12 Senator Talmadge. We certainly should give the govern-
13 ment a right to ascertain by what ever lawful means are neces-
14 sary the income of a recipient to determine his eligibility
15 for welfare.

16 The Chairman. It seems to me in that regard, you just
17 would proceed upon the ordinary legal principle of evidence
18 that where there is information that is available to a party
19 that he has the evidence to prove or disprove his claim and
20 if he declines to make that information available, then you
21 have to assume that the information would be adverse to him
22 and it would seem to me if one seeks a government grant, he
23 has the burden of proving that he is eligible for it.

24 Now if he has information, or if there is information
25 which is available to him that would prove or disprove his



1 eligibility, then he ought to withdraw the application. He
2 has no business to be in a position that would prove fraud.
3 He is either eligible or he is not eligible.

4 In other words, he has the right -- I can understand, if
5 he is not seeking a government grant he can say that is his
6 own confidential information, or that it is information that
7 is between him and his government, but he is seeking a grant
8 of money. As evidence held by the government to say whether
9 he is eligible or not eligible, he has no right to withhold
10 that from the government.

11 Senator Hathaway. We are marking up the Administration's
12 bill, correct?

13 Senator Moynihan. Yes.

14 Senator Hathaway. What we have not touched remains.

15 The Chairman. Do we have an amendment pending at this
16 point?

17 Mr. Stern. There is only an Administration bill as
18 far as foster care and adoption are concerned. It was only
19 in the adoption area.

20 Senator Hathaway. We have the House bill too.

21 Mr. Stern. Right.

22 Basically what you are doing is having a substitute for
23 the House bill.

24 Senator Hathaway. The Administration bill, plus whatever
25 amendments we have adopted.



1 Mr. Stern. The way I understand it, we have been going
2 on the basis of virtually writing a new bill with the excep-
3 tion of the adoption area himself, where you are basically
4 taking the Administration bill as your basic text. In foster
5 care and child welfare services, you are basically starting
6 with present law.

7 I guess you would have the foster care grants under this
8 new Part E.

9 Senator Talmadge. Where are you now, in this briefing
10 paper? When you get to pages 25 and 26, there are a couple
11 of matters that I want to bring up.

12 Mr. Stern. Let me raise one question with regard to
13 what was brought up on the Cranston Medicaid point this
14 morning. I did not understand this quite right.

15 What we are talking about is taking the staff recommenda-
16 tion that the Medicaid coverage generally be limited to the
17 treatment of the condition which contributed to the child's
18 being a child with special needs, but add to it a provision
19 that the state could, if it wanted, make a child with such a
20 pre-existing medical condition eligible for treatment of
21 other medical conditions as well?

22 Senator Moynihan. This tightens up what we agreed to.

23 Senator Dole. That is better.

24 The Chairman. Without objection, agreed.

25 Senator Talmadge. What page are you on?



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Mr. Stern. If you take up the area of child care now, this begins on page 15.

Basically, the House has a number of provisions that relate to the child care standards that extends for another year certain deferrals in certain programs to aid the employment of welfare recipients in connection with child care and other things.

We would suggest a few changes in the House bill.

Except for the deferral of child care standards, the provisions relating to welfare recipient tax credits and waiver provisions, family day care, homes where the Federally funded children only represent 20 percent or less of the children, those various things, we would recommend a five-year extension rather than a one-year extension.

Second of all, we would recommend -- this is something for Committee consideration. A gentleman from Oregon came in and asked that the Committee consider repealing a particular part of this day care requirement. When you suspended the staffing requirement, you said that a state could not, however, lower the staffing standards below the standard 1975 levels.

The state of Oregon apparently did an analysis and found that it was not worth it to get the Federal matching, and they wanted to do the entire program with state funds but would drop this particular provision.

So he recommended that the Committee remove that particular



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1 requirement that you could not lower the staffing standards
2 below the September '75 levels.

3 Senator Packwood. I might say, Mr. Chairman, that this
4 has been a point of controversy for several years about these
5 staffing ratios. Oregon has long thought that they know
6 better about Oregon's staffing problems rather than Federal
7 regulations.

8 I am still in the position that we should not be writing
9 in this bill specific staffing ratios that apply to New York
10 and Oregon identically.

11 Senator Moynihan. May I say that Mr. Peat, who was
12 the administrator who appeared before us, was an enormously
13 persuasive, competent witness. He made a case against the
14 Federal government telling Oregon what it had to do and giving
15 it so much help and then Oregon could not afford to take the
16 help, and it went on.

17 The classic account of over-regulation from Washington.

18 The Chairman. Does this support your position?

19 Senator Packwood. I would like to eliminate the staffing
20 ratios altogether. We keep waiting for another study and we
21 will have another Federal study, and each time we get a new
22 study the study comes up with different conclusions from the
23 previous study that we had been studying.

24 I am not sure that there is any right answer that some-
25 how is going to strike us like a bolt of lightning that would



1 be the right staffing ratio for evermore for everybody. I
2 would like to eliminate the staffing ratios.

3 Senator Hansen. Mr. Chairman, I share that opinion.
4 I think that when I was on the Special Committee on Aging
5 that referred to a similar situation, there was a strong push
6 to have the Federal standards imposed for nursing home care.
7 Then we got to talking about child care centers. The problem
8 is entirely different in many essentially rural states where
9 a mother may know the lady down the street, a block or two or
10 three blocks away, she knows her personally; and I think the
11 mother of the child is perfectly competent to make that kind
12 of determination as to the care of her child.

13 Senator Talmadge. Would you yield?

14 Senator Hansen. Yes.

15 Senator Talmadge. Was it the Administration's viewpoint
16 to let the states determine this decision?

17 Senator Moynihan. I do not think so, Mr. Chairman.

18 Ms. Adaway. Senator, we would prefer to stay with the
19 provision that does not lower the standards below the '75
20 levels.

21 Senator Moynihan. Change the standards, but not lower
22 them. Should we agree to that terminology? There is an
23 implicit approval and disapproval, higher standards and lower
24 standards. These are different standards. A small argument.

25 The Chairman. Is the amendment to change the standards



1 to give it more flexibility?

2 Mr. Stern. The amendment that was recommended by this
3 gentleman, Mr. Peat, during the period before you imposed
4 the Federal staffing standards, do not require that the
5 standards cannot be any different. I think the statute does
6 say lower in the sense of the number, the staff-child ratio,
7 than September '75.

8 If you were to approve that suggestion, you would be
9 giving states more flexibility during this interim period
10 until the Federal staffing standards are imposed.

11 Senator Packwood. My first preference would be to elimi-
12 nate standards, period. My second preference, if that fails,
13 would be to at least adopt what Mr. Peat said in the interim
14 while we are waiting for one more study.

15 The Chairman. I think that would be the best. This is
16 a sort of interim type thing so if you take this as your
17 second preference, which is what we are talking about here,
18 it moves us in the right direction. We can worry about the
19 rest of it in the welfare reform bill. I suggest that we
20 do it that way.

21 All in favor, say aye.

22 (A chorus of ayes.)

23 Senator Packwood. So the states are not required to
24 meet any particular requirements during this period?

25 The Chairman. Yes.



1 Senator Packwood. There is a certain area that is covered
2 by the interim period. There are other things that are
3 required during the interim period that would not be affected
4 by this.

5 The Chairman. I must say that some of these regulations
6 are so frustrating. Down in the small town of North Carolina,
7 people showed me what appeared to be about the best structure,
8 the nicest home anybody had down there. It had been once the
9 home of a big family and had been made into a home for
10 elderly people. It is about the best thing that could be
11 found in the whole area to put some dear old people, a nice
12 brick building. It had been once a nice private home.

13 Well, HEW went down there and closed it down because the
14 corridors are not as wide as the regulations would require.
15 In this case, the corridor was not quite wide enough. The
16 corridor is not as wide as the HEW regulations would provide.

17 That is the best place that could be found within 20
18 miles for those dear old people, but they have to turn them
19 all out and they have nowhere for them to go because the
20 corridors are not as wide, proceeding on the theory that it is
21 better to be out there in the rain and the cold than it is
22 to be inside a house, the nicest house in the area, because
23 the corridors are not as wide as somebody up here in Washington
24 thought would be desirable.

25 Senator Packwood. The Comptroller in New York did a study



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of day care based on the Federal standards, New York city's day care, some they run directly, some they contract, some they pay for.

The Comptroller on those staffing ratios and educational standards, came to the conclusion, that one of the things they did in the report was set up an organization to study what is generally regarded to be the best day care center in the United States.

The only conclusion they came to specifically is that the quality was unrelated to staffing. Some had ratios of 4 to 1, some had 15 to 1.

The other one is educational standards, because we have seen more and more of this creeping educational requirements before you can take care of the child. The fellow said the only thing I did not have the nerve to put into the report, the only standard he thought you should set, if you set any standards, is that those who take care of children in day care centers should be grandmothers. Apart from that, you could get better care of the children than any standard you might set.

Senator Laxalt. Mr. Chairman, did we clean up the access to records problems in connection with AFDC. We had an extended discussion, but as far as I can recall, I do not think we took any formal action.

The Chairman. Have we covered that?

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Mr. Stern. You discussed it. It is clear you decided, as far as Social Security records are concerned; the question was in other records.

I just have a question that there are things the Federal government really does not have control over.

Senator Moynihan. Clearly we want direct access to Social Security records. Can we get direct access to school records?

I am not against having them, but it is a matter of recommending --

Senator Talmadge. Any sources of income would be my judgment.

Senator Moynihan. What is our control of it? We can tell the Social Security Administration to make these available. We cannot necessarily tell the school districts.

It is a technical question, but a serious question.

The Chairman. Who can advise us about that? You are talking about access to school records.

Mr. Stern. I think you could write something that would sort of say, notwithstanding any provision of Federal law, if there are Federal barriers to it, that the welfare agencies would have access to records, to the extent that they could get them.

The Chairman. It seems to me if you are talking about your right to get records, it seems to me that all of those



1 records would have to be available to the applicant or child
2 as the case may be, would they not?

3 The applicant or the child or whoever speaks for the
4 child. It would seem to me if those people are seeking a
5 benefit, you have the right to condition the benefit on their
6 making available, or the person who has the record, that
7 they request making available whatever records they might
8 have that might shed light on the fact whether they are
9 entitled to it or not entitled to it.

10 If you would proceed with that approach, I do not know
11 why you cannot get any records that you want to see if some-
12 body is eligible for something.

13 Who can advise me any further on that?

14 Senator Hansen. That makes sense to me.

15 Mr. Swoap. Mr. Chairman, what you just said is correct.
16 I think that you can well put in the legislation to make it
17 a condition of the state plan or requirement of the state
18 plan that they make access to the state records, because the
19 state enumerates conditions for which Federal matching will
20 be required.

21 As in many other areas, you can make it conditional to
22 the state plan.

23 Senator Hansen. Would not that satisfy your concern?

24 Senator Moynihan. That is explicit; that would be
25 clear.

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Senator Laxalt. What is the existing situation in relation to access to records? Is the general authority specified at all?

Senator Talmadge. Mr. Galvin?

Mr. Galvin. You could put it in the state plan and all that could happen then is that the state would not comply. If the state did not comply, all you would have is a situation where nobody would be receiving welfare. You do not want a situation, unless you can compel the state to comply.

What you might do is take some financial benefit to the state and make it as a prerequisite to whatever you decide to propose under the Comptroller's Committee; you have your general revenue sharing, local assistance that you could use as part of it if the state laws were not changed.

What you have now is a very, very bad situation. The Federal government will pass a law, the state government will pass a law with the exact words, but they define it differently.

We have a situation, for example, in California where we did not include the Federal legislative committees or bodies in one of the 42-a provisions. By regulation, HEW has included it. California adopted the same state law and will not allow GAO to audit their records because we have a Federal law that no legislative body or committee can receive information and they define GAO as a legislative body or



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committee. This is the type of situation that you have to overcome.

They have many times similar laws in states that we have in the Federal jurisdiction that we can only control the Federal law without amending them. You can always say, notwithstanding any other provision. That affects all the Federal laws.

The only way that you can assure, for the rest of it, is to put the requirement in, have it as a state plan, but also have it that if the state does not amend their laws to allow that, that you have a condition of the type of penalty that I recommended. Then they would certainly do it.

Most of the states are complying. You do not have a problem with most of the states.

You do in different states have a reason for not complying. California may have one reason; the other states may have another reason. But you have in most of the states -- you just do not have the problem.

There are certain states that will not let you have access to various types of records and they have it by law and you have to affect their state law.

The Chairman. I do not see that we are achieving much by ruling the state completely out of compliance. It seems to me that if we cannot find a better way of doing it, I suggest we hold that in abeyance until we can.



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Senator Moynihan. Why do we not wait and see what Social Security brings us.

Mr. Swoap. If I may say at this point, the Curtis proposal is something to authorize the states to secure access to other state's records and to Federal records. There was no question of compliance.

The Chairman. Did we agree with that?

Mr. Swoap. We provided 75 percent Federal matching.

The Chairman. We have done that.

Mr. Swoap. There was some question as to the extent of the authorization. Would it go beyond Social Security?

The Chairman. It seems to me if you want to you could authorize the states to require of all applicants that they require the information that they seek and provide the information. Is that in there?

Mr. Swoap. Yes, sir.

The Chairman. If that is the case, I think it is covered.

Senator Talmadge. By the same token, could you not have the converse? Some fellow may come down and say he is not working and he is working for a corporation and earning \$6,000 a year. Could not the state check to see whether he in fact was working? It ought to work both ways.

Mr. Swoap. Senator Talmadge, the language that is included in the proposal would read as follows. It would say:

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1 "Notwithstanding any other provision of law," introductory
 2 clause, and they it continues to say: "authorized persons
 3 shall be authorized to have access to any records maintained
 4 by any state agency or by any agency of a political subdivi-
 5 sion of a state." Then there is a comparable provision
 6 related to the Federal government, "for the purposes of
 7 carrying out the provisions of this part, including payroll
 8 reports by employers for unemployment insurance purposes."

9 Senator Talmadge. That covers it.

10 Mr. Swoap. That is correct. Payrolls of public agencies,
 11 which would pick up the situation that Secretary Califano has
 12 discovered, state and local tax records, records of motor
 13 vehicle registration and operating licenses and public assis-
 14 tance records of other agencies within the state.

15 We would also include in another bill the question of
 16 education records and I think that we would have to determine
 17 if this Committee has jurisdiction over the education records.

18 Senator Talmadge. There are three things, Mr. Chairman.
 19 The Chairman. I think that is covered.

20 Senator Talmadge. There are three things in this item
 21 that I have some interest in; I do not know whether you have
 22 taken it up.

23 By page or not, page 22, page 25, page 27 --

24 Senator Laxalt. Have we completed access to records? "

25 Senator Talmadge. I think the Curtis amendment covers

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1 it.

2 Senator Laxalt. The record will indicate that the Curtis
3 amendment, to the extent that we stated here --

4 Mr. Stern. The Curtis amendment -- I do not think the
5 Curtis amendment directly says what the Chairman said about
6 the state requiring information from recipients. This is a
7 somewhat different approach from that.

8 You may want to look at this over the week-end.

9 The Chairman. It seems to me that the Curtis amendment
10 says states may require this information, does it not?

11 Mr. Stern. The question is what they have access to.
12 I think the part about agreeing that the states can require
13 recipients to provide information on their income is not an
14 objectional thing. That is a person coming in to apply.

15 The question is, to what extent are you going to allow
16 people access to records. Up until now, you have been cautious
17 of how quickly you let people go in and have access to records.

18 Social Security records are one thing.

19 The Chairman. I suggest that the staff think about it
20 and try to figure out the best way to do it. I think that
21 you could simply say that the Curtis amendment proceeds on the
22 basis that the state may obtain the information that shows
23 the person's eligibility.

24 I think that you could say that may require a recipient
25 as a condition of receiving the benefit, make available the



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1 information he has that will determine his eligibility or
 2 ineligibility, in that he requests that any employer, any,
 3 employer make available they have involving him that would
 4 be evidence of income, any information they have relevant to
 5 him which would show him to be qualified or not qualified.
 6 You are really talking about, I assume, information involving
 7 income or assets.

8 I should think if he wants to they could ask him to sign
 9 a form that I request all employers for whom I have worked to
 10 make available any information which would reflect on income
 11 or provide information providing my income or my assets, and
 12 you could show that to the employer and say we have this
 13 request from this person. We want to look in the records to
 14 see if you have information that you hired this person and
 15 how much you paid him.

16 If they have such information make the request, and maybe
 17 we should say further that upon such request the employer
 18 should make the information available to the state or the
 19 state agency, or to the Inspector General, whoever wants it.

20 Senator Talmadge. We have all sorts of authority. We
 21 relegate IRS to take money away from people. Now we have
 22 people who come in who want to take money away from the
 23 government. We ought to have the same authority to determine
 24 their eligibility that IRS has to take it away. It ought to
 25 be that simple.



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1 Mr. Stern. I have a personal, queasy feeling about letting
2 any person who is authorized by a state to have access. If
3 he is going to do it for these purposes, fine, but there may
4 be some people who have some other purposes in mind, and they
5 would be authorized to have access to the Federal information.

6 Senator Moynihan. Mr. Chairman, I think that the
7 Committee clearly wants to expand the access to this kind of
8 information, yet you suggested that the staff may work over
9 the week-end to get language that they would be familiar with
10 and make a few checks.

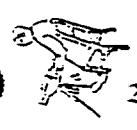
11 The Chairman. That appeals to me. I think that -- I
12 like what Senator Talmadge said. We do not want to make all
13 of the information available to just anybody. If this man
14 is seeking information, seeking money from government, he
15 ought to be willing to make available any information anybody
16 has with regard to his income or his assets.

17 That is all I am talking about.

18 Senator Laxalt. Dave, under the proposed Curtis amend-
19 ment, who is the authorized person, a Federal person or a
20 state person that is contemplated?

21 Mr. Swoap. A state person, because they would be the
22 person administering the program. There is what I think is
23 a safeguarding clause in each section that says, if such
24 information is necessary to make a determination of eligibil-
25 ity; so I think there is a safeguarding clause to meet the

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concern that Mr. Stern made.

Senator Laxalt. Getting back to the concern raised a little while ago, how do we get the state to conform to these conditions?

Senator Talmadge. They have to submit a plan that has to be approved by the Secretary.

That is my understanding; is that not right?

Mr. Swoap. Yes, sir. You have the option of doing that or simply authorizing the state agents to have access.

Senator Laxalt. Not compel it?

Mr. Swoap. That is right.

Senator Laxalt. Under this proposal, it is not a matter of mandating it; it is discretionary?

Mr. Swoap. That is correct.

Senator Talmadge. If that issue is settled, I would like to proceed to page 22 and ask Mr. Bill Galvin to explain this amendment.

Mr. Galvin. S. 1795 would provide that AFDC recipients who are not excluded by registration by law are required to have an employment search; they will look for work. The Committee has approved that provision previously. They have approved everything you have in this provision on the WIN requirement, except the '68 counsel.

The '68 counsel was found to be a handicap. When someone refuses to work or refuses to participate in a work project,

1 at the present time they are returned to the welfare agency
2 who, for the next 60 days, will counsel them and try to get
3 them back. If not, they are no longer on assistance. The
4 children are still eligible for protective payments; however,
5 if on the 59th day he decides to go back, he can start all
6 over again; a week later stop, and go through another 60 days,
7 a continuous thing.

8 Your bill provides under the regulations now in effect
9 that there will be counseling; the Labor Department will
10 counsel this man for 30 days trying to find out exactly why
11 he will not work. We would eliminate the 60-day requirement.

12 The second part of the bill relates to an incentive to
13 report income. A large amount of your payment errors -- this
14 is on page 25 -- a large amount of your payment errors are
15 because of earned income. They equal about 20 percent of the
16 caseload that are found in error.

17 A few states require income to be reported on a monthly
18 basis as a condition of eligibility. This would not effect
19 that part of the condition of eligibility for the states.

20 However, the way most states compute it, they do not
21 compute the total amount as an overpayment. What they do, if
22 six months later they found a person has been employed, they
23 go back and recompute their benefits as though they knew it
24 all of the time, and then it is only the difference between
25 what they would have gotten if they had known and what they

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1 actually have got.

2 So there is no incentive. If they are working and it is
3 never reported, they have all the additional income. They
4 have all the income plus the welfare payment. Under this
5 provision, if they did not report it without good cause, there
6 is a good cause provision in there to protect that, the whole
amount would be considered as an overpayment.

7 They would be entitled to no disregards.

8 The Chairman. All in favor, say aye?

9 (A chorus of ayes.)

10 The Chairman. Opposed, no?

11 (No response)

12 The Chairman. The ayes have it.

13 Senator Talmadge. On page 27, this amendment on the
14 runaway fathers.

15 Mr. Galvin. The Committee already approved Federal
16 matching through September 30, 1978. The Nunn bill would
17 extend that to September 30, 1979. It would also improve
18 reporting and child support collection by prohibiting the
19 advanced payment to a state of the Federal share of their costs
20 for a calendar quarter unless it is completed, a full and
21 complete report of their collections and distribution of the
22 amount collected and disbursed for the calendar quarter which
23 ended six months earlier.

24 To give you an example of that, in California and New
25



1 York -- although New York has greatly improved -- the states
2 have not reported all of the income and all of the collections
3 from fiscal year 1976.

4 California is known to have collected, because the methods
5 they have to collect are through their District Attorneys.
6 They put their money into a bank. We note that there is
7 \$60-some million collected in AFDC and roughly \$70 million in
8 non-AFDC. They have reported their full expenditures; you
9 never have to worry about the cost, as they always report
10 that, but they have not as yet reported the full \$60 million
11 that has been collected.

12 New York at one time had basically about \$10 million that
13 they had not reported. Most of that has been cleared up. It
14 affects only a few states. Most of the states comply with
15 the law.

16 Senator Talmadge. I notice that this amendment is
17 just extended to September 30, 1979. We know this Runaway
18 Fathers Act is working wherever the states are trying to make
19 it work. Why should it not be permanent legislation?

20 Mr. Galvin: I think that we should. We are required
21 by law for it to be done.

22 Senator Talmadge. I think it should be made permanent,
23 Mr. Chairman. Is there any reason why we should not make it
24 permanent?

25 I move the amendment, and I move that it be made permanent.

1 I know the staff has some comment. What is that?

2 Mr. Stern. The staff comment is simply supportive of
3 the Nunn bill.

4 Senator Talmadge. You see no objection to making it
5 permanent, do you?

6 Mr. Stern. No, sir.

7 Senator Talmadge. I move that it be made permanent.

8 The Chairman. All in favor, say aye?

9 (A chorus of ayes.)

10 The Chairman. Opposed, no?

11 (No response)

12 The Chairman. The ayes have it.

13 May I say that in some of these areas, these amendments
14 of this sort are improving this program. A lot of people,
15 I think, may have overlooked the extent to which we are pro-
16 viding answers.

17 For example, it looks as though the Administration and the
18 Committee are all going to agree that earned income credit is
19 a good idea. We want it to be paid out more efficiently,
20 and we are working on ways to do that; we think we can. We
21 generally agree on the idea that it is a much better idea to
22 pay somebody to work than to pay them for not working, and we
23 are moving in that direction, and I think it would overcome
24 some of this resistance to this idea, just to make a grant or
25 a gift of money, we are entitled to know the truth. We are

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1 entitled to know the facts. All of these things move us in
2 the right direction.

3 Do you have anything else, Senator Talmadge?

4 Senator Talmadge. No, sir.

5 The Chairman. Hopefully, we are getting towards the
6 conclusion.

7 Mr. Stern. Mr. Chairman, there are a couple of more
8 things, if you want to consider them, minor things in the
9 child care area.

10 On page 17, the provisions relating to the reimbursement
11 of child care providers to hire welfare recipients that were
12 in the child care legislation enacted last year are only
13 applicable to full-time employment and we would suggest that
14 you make them also applicable to part-time child care, which,
15 in many cases, the mother of a small child would simply work
16 the morning or only the afternoon or something like that.

17 The Chairman. To the advantage of the mother?

18 Mr. Stern. Yes, sir. It would make that reimbursement
19 extend to part-time as well as full-time.

20 The Chairman. I think that is a good amendment. All in
21 favor, say aye.

22 (A chorus of ayes.)

23 The Chairman. Opposed, no?

24 (No response)

25 The Chairman. The ayes have it.



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Mr. Stern. The second one relates to the private proprietary child care centers where they limit direct reimbursement to 80 percent of the first \$5,000 of wages in the expectation that the remaining part will be covered by the 20 percent tax credit.

I think this is really an oversight on our part in drafting this, but the 20 percent tax credit is computed on the basis on nonreimbursed expenses and you really should compute it on the basis of the entire expenses to make this work the way you want it to. We would suggest that modification to provide comparable treatment of proprietary, non-profit operations which I think you intended.

The Chairman. All in favor, say aye?

(A chorus of ayes.)

The Chairman. Opposed, no?

(No response)

The Chairman. The ayes have it.

Mr. Stern. In the social services area on line 19, on this point, we would simply recommend that you take the House bill as it relates to child care -- now that you preserve child welfare services, this is a separate entity-- the child care provisions in the House bill really would do pretty much what you have in mind.

You would simply increase the social services by the \$200 million in the child care, but preserve the child care

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as a separate entity for one more year.

The House bill has a provision related to addicts and alcoholics that Senator Hathaway originally introduced that extends it for another year; we suggest that you make that permanent.

It has to do with how you treat certain medical services during the rehabilitation process and you have extended it a few times. Again, we saw no reason to make that permanent.

Senator Hansen. Let me ask one question here. From what I gather, occasionally an addict may be a person who is not quite as responsible as others are in the community.

Will we deny law enforcement people the access to information that may impinge on the safety and well-being of people in the community through through this second program? I just want to be sure that we do not go that far.

Mr. Stern. I guess the confidentiality requirement might bring that about. I do not know of any crimes that have resulted in the couple of years that this has been in effect.

Senator Hansen. I thought I recalled reading on occasion someone who was an addict being treated -- maybe it was not even any awareness of all by anyone.

I am sure, protecting him in every way we can. I do not want to go so far as to deny relevant information to law enforcement officers if someone might be considered a



1 dangerous person, that is all. If you know and if you are
2 sure it is not going to result in that situation, I have no
3 concerns.

4 Mr. Stern. Why do we not pass this over and bring it
5 up again next week?

6 The Chairman. All right.

7 Mr. Stern. The House bill has a special provision on
8 Social Services entitlement in Puerto Rico, Guam and the
9 Virgin Islands that would require states, before the
10 beginning of the year, to certify whether they are going to
11 have any excess funds under their entitlement which would
12 afford those territories an opportunity to plan for using those
13 funds earlier. We see no objection to that and do not believe
14 that would increase the cost of the program. It would simply
15 give them information a little bit earlier.

16 The Chairman. Without objection, agreed.

17 Mr. Stern. That is really all we have in that area.
18 Perhaps the Committee could turn to page 29 and we could
19 start in on provisions affecting the Supplemental Security
20 Income program.

21 Mr. Humphreys. The House bill has a number of provisions
22 relating to the Supplemental Security Income program which
23 provides for the aged, blind and disabled, and there are
24 also a number of other alternative provisions that the staff
25 has included in this document.

1 The first provision in the House bill relates to the
2 definition of "child" for purposes of SSI. As enacted, the
3 SSI program uses the same type of definition of child as a
4 number of other Social Security Act programs, where you are
5 considered a child until you are 18 unless you are in school,
6 in which case you are considered a child for a couple of more
7 years.

8 In the SSI program, however, unlike most other programs,
9 this does not really relate to your basic eligibility and
10 affects only how your income is treated. The net result of
11 this seems to be that because being considered as a child
12 means, in a number of cases, that your parents' income is
13 included in your income, that it has the effect of discouraging
14 disabled children from going to school during this period.

15 So that the House bill would just make the definition,
16 essentially eliminate the definition of child at all, and
17 would just treat people according to specific age cut offs.
18 The House bill actually some savings. Some people would
19 come out better, and some people would come out worse.

20 The Administration thinks that it would come out about
21 even on this, and we would recommend going along with the
22 House bill.

23 The Chairman. That is in the House bill? We do not
24 have to agree to it.

25 What else?



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Mr. Humphreys. The next item concerns items and alcoholics, and Senator Hathaway, we understand, would like to be here when that is considered, so we go beyond that to the next item on page 30. The House bill includes a provision under which SSI eligibility would continue when an individual leaves the United States, if he is hospitalized under certain specific provisions for which Medicare protection is provided the staff has been unable to find what the particular reason for doing this in a welfare program is, and there does not seem to be any great need for this provision. We would recommend deleting it.

The Chairman. Without objection, it will be deleted.

Mr. Humphreys. The next provision in the House bill is one of several provisions dealing with the question of income under the SSI program. The House bill in general -- the SSI program starts from a general rule that since it is a needs based program and it tends to provide for people according to their needs, the benefits are reduced if you have any other income, and the definition in existing law is quite broad. Anything in cash or in kind is considered income, unless there is some sort of exclusion.

The House bill includes a provision which would exclude from the definition of income any gift or inheritance subject to regulations of the Secretary that is not readily convertible into cash. The staff believes that there is a basic problem



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in the SSI program as it now stands relating to the treatment of income, income generally, but we feel that this particular provision in the House bill really opens the door to some questionable situations where somebody might give a gift in the form of say, a supply of your food, or something like that, which technically is not readily convertible to cash but could really be a substantial contribution to income.

There is, in existing law, a provision which is designed to deal with the in-kind income question, and this is a provision that says, if you are living in somebody else's household and getting in-kind support that way, you automatically have a one-third reduction in your benefit amount, rather than having the value of that income computed.

That was put in by the Committee in 1972 with a view towards simplifying the administration of the program. Unfortunately, it has turned out that the Administration has had a very difficult time administering that provision, and it seems to relate to the question of determining whether or not somebody is living in somebody else's household or is sharing an apartment, or what the living situation is.

The staff, as an alternative to both the present law provision and the House bill, suggests a general rule which we think addresses the intent of the program, which is where this income really constitutes a substantial regular



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contribution to your food or shelter cost, you would apply this one-third reduction on a percentage basis. If it were a relatively minor item and the individual could come back in and establish that it was not worth the one-third, then the reduction would be computed on the exact amount, but in most cases, you would not have to make that computation, and you would not have to make this apparently quite difficult determination of whether or not the individual is in someone else's household.

Because it would, in fact, somewhat liberalize in some cases for people who are living in other people's households, the Administration estimates that this does have a cost. It does have an annual cost of \$15 million, but we think that it would be a better rule than what present law has in that it would, in fact, simplify the program.

We would recommend adopting this rule as an alternative.

The Chairman. Without objection, we will agree with that.

Mr. Humphreys. The House bill has another provision relating to payments to what are called presumptively eligible individuals when they first apply for benefits. Again, there is an existing law provision that permits the Social Security office, when an aged, blind or disabled person comes in and appears to meet all the requirements of the law and has an urgent need, the office is required to pay them an advance of



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up to \$100, and the checks are right there in the district office, and this could be done on the spot.

Apparently, there has turned out to be very little call for this, and there are a few hundred such cases each month. The House bill would increase the amount that can be paid to the full amount of the SSI plus any state supplemental entitlement that the individual may be eligible for and would allow it to be paid for up to three months.

Presumably, this was intended to be a month at a time although the bill is drafted so you could technically give all three months' payment right there on the spot. This could be as much as \$800 for a person in California. The staff thinks that this would involve some very substantial payments and would make this presumptive eligibility mechanism much more attractive than it is at present, and would lead or would put at least some incentive in the program to a pay now and ask questions later type of attitude which could increase the rather substantial level of overpayments that the program has been experiencing already.

In view of the rather limited use that the existing provision has, we would recommend that it be deleted in the House bill.

The Chairman. Without objection, it will be deleted.

Senator Roth. Mr. Chairman, could I offer a couple of noncontroversial amendments? We adopted them before. I want



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to go back to the Floor and introduce some amendments.

On page 22, under the community work and training programs, I propose that we again adopt an amendment to re-enact the community work and training provisions so that states wishing to have such programs could do so under the standards and regulations provided by the legislation. I think either Dave or Mike can explain this.

Mr. Stern. This is a program that was in existence before the Work Incentive program existed, and there are states which would like to do it again and we would certainly recommend it. The only modification is that if a person is already in the Work Incentive program, they could not be in both.

The Chairman. I think it is a good amendment. In fact, I did not know when we instituted the Work Incentive program that we said you cannot pay somebody to work. I would have voted against that.

Without objection, it is agreed to.

Senator Roth. The second one is along the same lines, to permit the operation of a demonstration project in the state. The amendment I propose really has been developed by the staff.

Mr. Stern. The Committee approved it in 1973.

The Chairman. Without objection, agreed.

I would suggest that we adjourn until Monday. I think



1 we have done as much as we can do right now.

2 We have very important matters on the Floor. We will
3 just adjourn until Monday.

4 (Thereupon, at 11:10 a.m., the Committee recessed to
5 reconvene Monday, August 1, 1977.)

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