

1 EXECUTIVE COMMITTEE MEETING TO CONSIDER S. 1795 AND THE
2 BUDGET RECONCILIATION INSTRUCTIONS AS CONTAINED IN THE
3 BUDGET RESOLUTION

4 WEDNESDAY, JUNE 26, 1996

5 U.S. Senate,
6 Committee on Finance,
7 Washington, DC.



Gilmour
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8 The meeting was convened, pursuant to notice, at 10:35
9 a.m., in room SD-215, Dirksen Senate Office Building, Hon.
10 William V. Roth, Jr. (chairman of the committee) presiding.

11 Also present: Senators Chafee, Grassley, Hatch,
12 Simpson, Pressler, D'Amato, Murkowski, Nickles, Gramm,
13 Lott, Moynihan, Baucus, Bradley, Pryor, Rockefeller,
14 Breaux, Conrad, Graham and Moseley-Braun.

15 Also present: Lindy L. Paull, Staff Director and
16 Chief Counsel; Mark A. Patterson, Minority Staff Director
17 and Chief Counsel.

18 Also present: Ken Kies, Staff Director, Joint Tax
19 Committee; Alec Vachon and Dennis Smith, Health Analysts,
20 Majority.

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1 OPENING STATEMENT OF THE HONORABLE WILLIAM V. ROTH, JR., A
2 U.S. SENATOR FROM DELAWARE, CHAIRMAN, COMMITTEE ON FINANCE

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4 The Chairman. The committee will please come to
5 order. The purpose of today's mark-up is, of course, to
6 consider the Finance Committee's budget reconciliation
7 instructions as contained in the budget resolution.

8 In meeting the first reconciliation bill's instruction,
9 we will consider welfare reform and Medicaid reform. To
10 meet these instructions, I have set before the committee a
11 modification to S. 1795.

12 After a brief opening statement by myself and then by
13 Senator Moynihan, members will be recognized for five
14 minutes for opening statements. We are hoping that
15 everybody will be restrictive in this regard.

16 Then we will have a walk-through of the bill and
17 proposed modifications before proceeding to consideration
18 of the amendments.

19 Now, on May 22nd I introduced S. 1795, the Personal
20 Responsibility and Work Opportunity Act of 1996. An
21 identical bill was introduced in the U.S. House. My
22 colleagues in the House and I made every effort to meet the
23 goals adopted by the Democratic and Republican governors
24 earlier this year.

25 The governors' agreement has presented us with a

1 tremendous opportunity to achieve authentic welfare and
2 Medicaid reform. S. 1795 was based on the governors'
3 bipartisan agreement. The work of the committee today will
4 also reflect a true spirit of bipartanship.

5 Last week, members of the committee submitted 163
6 amendments for this mark-up; 53 Republican, 110 Democratic.
7 Of these, the modification before the committee today
8 included 87 of these amendments, 35 of which were offered
9 by Republicans and 52 from Democrats.

10 Now, it is important not to lose sight of the overall
11 goal of this legislation, that is, to replace a system
12 which has failed the very people it has intended to serve.

13 After 30 years of experience, we know that Washington
14 does not know how to build strong families. It is time to
15 end the incentives for staying in poverty. It is time to
16 end a system in which welfare pays more than work.

17 Over five years, a typical welfare family receives more
18 than \$50,000 in tax-free benefits. In a number of States,
19 the benefits are significantly higher. It is appropriate
20 to set a time limit on benefits and to say enough is
21 enough.

22 This legislation meets the four primary goals of the
23 NGA association. One, the basic health care needs of the
24 Nation's most vulnerable populations must be guaranteed.
25 S. 1795 guarantees coverage and benefits for poor children,

1 children in foster care, pregnant women, senior citizens,
2 persons with disabilities, and families on welfare.

3 If anything, the legislation goes beyond the NGA
4 resolution in terms of setting guarantees. Indeed, today
5 we will extend those Medicaid guarantees even further to
6 phase in coverage of children ages 13 to 18, and to
7 families which are leaving welfare.

8 The modification also requires States to provide health
9 coverage under the new Medicaid program for one year to
10 families leaving welfare to go into the work force.

11 Two, the growth in health care expenditures must be
12 brought under control. While slowing the rate of growth,
13 the federal commitment to Medicaid remains intact. Even
14 after reform, Medicaid spending will rise faster than
15 Social Security.

16 Federal Government will spend an estimated \$827 billion
17 between 1996 and 2002 on Medicaid, an average annual
18 increase of approximately six percent.

19 We met the President half-way in terms of Medicaid
20 savings. The difference between us is less than two
21 percent of the total federal cost of Medicaid. That
22 difference is about two dimes a day per beneficiary.

23 Three, States must have maximum flexibility in the
24 design and implementation of cost-effective systems of
25 care. Among a number of provisions in meeting this goal,

1 S. 1795 repeals the Boren Amendment, as requested by the
2 governors. It frees a State from federal restrictions
3 which impede the movement into managed care.

4 Four, States must be protected from unanticipated
5 program costs resulting from fluctuations in the business
6 cycle, changing demographics, and natural disasters. S.
7 1795 includes an open-ended supplemental umbrella mechanism
8 to provide additional funds for unexpected growth in
9 guaranteed populations, as well as certain specified
10 optional populations.

11 This legislation achieves each of these goals. It
12 replaces a failed welfare system in which dependence is
13 measured in generations and illegitimacy is the norm with
14 a system that encourages work and helps keep families
15 together.

16 This legislation will return power and flexibility to
17 the States, while retaining guarantee of a safety net for
18 the most vulnerable populations.

19 Medicaid reform is a critical component of moving
20 families from welfare to work. More than three years ago,
21 President Clinton told the Nation's governors that, "Many
22 people stay on welfare, not because of the checks, they do
23 it solely because they do not want to put their children at
24 risk of losing health care, or because they do not have the
25 money to pay for child care."

1 That is precisely the purpose of S. 1795. We are
2 providing more child care funding than under current law,
3 and more mandatory child care funding than President
4 Clinton has proposed. This legislation will help families
5 make that important translation into the work force.

6 I have some further comments, but I would ask that they
7 be included as if read and call upon my good friend, Pat
8 Moynihan.

9 [The prepared statement of Chairman Roth appears in the
10 appendix.]

11 The Chairman. May I just see if our newest member is
12 here? He is not here yet. But I would, Senator Moynihan,
13 like to recognize Larry Pressler and Phil Gramm for their
14 efforts to strengthen the work requirements for welfare
15 recipients which were included as part of this
16 modification. I thank them for their interest in these
17 matters.

18 Senator Moynihan?

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1 OPENING STATEMENT OF THE HONORABLE DANIEL PATRICK MOYNIHAN,
2 A U.S. SENATOR FROM NEW YORK

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4 Senator Moynihan. Mr. Chairman, I thank you. We
5 would all, on this side, do for the courtesy you have shown
6 us, the consideration, as you deal with legislation which
7 really did not arise in this committee or in the Senate,
8 but came over from the House last session and was revived
9 by the governors, as you say very clearly.

10 I will have no amendments to offer, as I cannot accept
11 the basic principles of this legislation because of the
12 impact they will have on children.

13 The Secretary of Health and Human Services, Dr.
14 Shalala, testified last March and she said, as the
15 President said in January, "We should take advantage of
16 bipartisan consensus on time limits." Following that, on
17 March 4, Senator Moseley-Braun and I wrote to the President
18 and said, may we ask you to reconsider that?

19 If a five-year time limit is enacted this year, it
20 would take effect in the year 2001. At that point, income
21 support would end for some 3.552 million children. More
22 than two-thirds of these children would be black or
23 Hispanic. In five years' time, it will be even higher;
24 some five million children.

25 We wrote, "To drop 2,414,000 black and Hispanic

1 dependent children from our federal life support system
2 would surely be the most brutal act of social policy since
3 reconstruction. We cannot avoid the judgment that this
4 disparate impact on minorities, which Secretary Shalala did
5 not dispute, would give rise to a civil rights cause of
6 action." Then we said, "May we speak to you on this
7 matter?"

8 We have not heard from the President as yet. But, on
9 March 6, Ms. Susan Brophy, an Assistant for Legislative
10 Affairs, said, "The President has been advised of your
11 concerns and you will receive a response in the near
12 future."

13 We received a response of sorts this morning in
14 response to a request for an analysis by the Office of
15 Management and Budget as to the impact on poverty of the
16 legislative we have before us.

17 This is from Mr. Jacob Lew, the Acting Director. It is
18 a response, of sorts. It goes on about, we have to change
19 the culture of the welfare office. And we agree on that;
20 that is what the Family Support Act of 1988 was all about.

21 But it then goes on to say, "As you recall, the
22 administration's analysis of the conference report on H.R.
23 4," which is our first bill, "estimated that it would move
24 1.5 million children below the poverty line." 1.5 million
25 children.

1 Based on that analysis, it appears that improvements in
2 the Roth-Archer bill would mean that somewhat fewer
3 children would fall below the poverty line, but many of the
4 factors that would move children below the poverty line
5 remain in both bills.

6 So we have before us, in the aftermath of a century,
7 from the time Theodore Roosevelt convened the first White
8 House conference on dependent children in 1909, we have
9 been seeking to make a national commitment to this problem,
10 which has only grown. Here we have legislation that I
11 think could be properly described as the most brutal act of
12 social policy since reconstruction.

13 As regards aliens, Mr. Chairman, the letter from the
14 Acting Director of OMB writes that, "With regard to
15 virtually all legal immigrants, the bill bans SSI and food
16 stamp benefits permanently." Legal aliens. What are our
17 national laws about?

18 With regard to the food stamp program, the bill deeply
19 cuts benefits for families with high shelter costs, imposes
20 a four-year time limit for childless adults, and creates a
21 food stamp block grant which would undermine the national
22 nutritional safety net.

23 Now, this is the Acting Director of OMB. A letter,
24 which I think arrived auspiciously this morning after a New
25 York Times editorial earlier this morning said, "Where is

1 that letter?" By golly, it showed up in no time at all.

2 But this bill would undermine the national nutritional
3 safety net. It would throw millions of children into
4 poverty. I just hope we can get through this episode and
5 next year on a bipartisan basis, resume what we have been
6 doing for the last 70 or 80 years, which is working
7 together on behalf of children.

8 Thank you for your indulgence, Mr. Chairman, and your
9 courtesy in all matters.

10 The Chairman. Thank you, Senator Moynihan. Just let
11 me point out that I think we all are deeply concerned about
12 what is happening to children. Part of the reason many of
13 us feel reform is necessary is the fact that,
14 notwithstanding AFDC benefits, the average number of
15 children who receive it has grown tremendously, from over
16 roughly three million in 1965, it is something like
17 9,300,000 in 1992, and it has been projected that 12
18 million will receive AFDC benefits.

19 Senator Moynihan. About one child in eight. Yes.

20 The Chairman. So the problem is, what can we do to
21 reform this mess where more and more children find
22 themselves in poverty and depend on AFDC to a helping hand
23 to bring them back into the mainstream? I think we are all
24 in agreement as to the goals and we are all equally
25 concerned about the plight of children throughout this

1 country.

2 Senator Moynihan. Sir, may I ask that the letter from
3 OMB be placed in the record?

4 The Chairman. Without objection.

5 [The letter appears in the appendix.]

6 The Chairman. Senator Chafee.

7 Senator Chafee. Mr. Chairman, I do not have an
8 opening statement. I just want to say that, as originally
9 submitted, this bill ended the coverage for children at age
10 12 at 100 percent of poverty or less, and I have been
11 deeply interested in this and in seeing that the current
12 law continues that they be covered, adding a year each year
13 until they reach the age of 18. You have done that, Mr.
14 Chairman, and I want to thank you for that.

15 I have amendments I will be offering when we get to the
16 time for amendments.

17 The Chairman. I want to give you due credit for your
18 initiative in this matter.

19 Senator Baucus?
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1 OPENING STATEMENT OF THE HONORABLE MAX BAUCUS, A U.S.
2 SENATOR FROM MONTANA

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4 Senator Baucus. Mr. Chairman, I will be very brief.
5 First, I support the welfare provisions in this bill. I
6 think most Americans want welfare reform. I compliment
7 you, Mr. Chairman. Both parties, along with the President,
8 have been working on trying to find good, solid, meaningful
9 welfare reform, and I compliment you. I think this bill
10 helps accomplish that objective.

11 The problem I have, Mr. Chairman, is the Medicaid
12 provisions. I really have two deep concerns. One, I think
13 the provisions themselves are not adequate to the task
14 before us. I think the funding formula is unfair to
15 certain States, certainly low-cost, high-growth States like
16 Montana. I might add, I could speak probably for Senator
17 Graham, from Florida, as well.

18 Second, I might point out that the Medicaid provisions
19 are, I think, deficient because it still is a block grant
20 which is under-funded. It is to be an under-funded block
21 grant. It is just not up to the needs of the State, and I
22 think that we are, in some sense, not being totally
23 straight with the American people and the States and the
24 degree to which the funding is inadequate.

25 But there is another basic problem here, and that is,

1 the President is going to veto this. This bill is going
2 nowhere. It is not going to be enacted. I think,
3 therefore, it makes sense for us to separate these two
4 bills, the welfare bill upon which there is significant
5 agreement--not total, but significant--but then work
6 separately on the Medicaid bill to try to get some kind of
7 a bipartisan agreement, at least enough of an agreement so
8 that it will pass.

9 We know that nothing passes this Congress unless there
10 is sufficient bipartisan agreement. I think we are wasting
11 our time. We are being cynical with the American public.
12 There is a cynical process here in attempting to fool the
13 public, that we are going to get this bill passed, that is,
14 both the welfare combined with the Medicaid block grant
15 provision.

16 I think we should be straight with American people and
17 tell them the President is going to veto this bill,
18 therefore, let us not pass this bill together. As it is,
19 we wait for the President to veto it, then the Congress
20 will be blamed, everybody is going to be blamed, the
21 American public will be upset that Congress did not do
22 anything about welfare reform. We will have shirked our
23 responsibility and our duty.

24 So I, respectfully, Mr. Chairman, thank you for some of
25 the provisions, particularly the welfare provisions in the

1 bill and some others, but I must say that I, reluctantly,
2 will oppose this bill because it contains Medicaid block
3 grant provisions, which I think are unfair and
4 inappropriate, and because we are wasting our time here
5 because the President will veto it.

6 I rather think that we should, again, separate the two,
7 try to find a bipartisan agreement on the Medicaid
8 provisions as well. It takes time, it takes effort, it
9 takes rolling up our sleeves. It is going to take work,
10 but that is what the American public wants us to do and
11 that is what we should do.

12 The Chairman. Senator Hatch.

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1 OPENING STATEMENT OF THE HONORABLE ORRIN G. HATCH, A U.S.
2 SENATOR FROM UTAH

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4 Senator Hatch. Thank you, Mr. Chairman. I know we
5 have a lot to go through today, so I will just make a few
6 brief points.

7 On Medicaid, there are two important goals met by this
8 bill. First, is we will begin to get a grip on our
9 ballooning entitlement spending, spending that is crowding
10 out some very worthwhile discretionary programs, especially
11 in the health area.

12 The second, is that we will begin the process to make
13 Medicaid more efficient to remove the death grip control
14 over the program from Washington and return it to the
15 States where it can be managed better.

16 On welfare, this bill will radically change today's
17 broken welfare system. We see a system that has become
18 destructive, fostering a cycle of dependency, transformed
19 into a transitional system that puts people to work and
20 supports American families as they move towards self-
21 sufficiency.

22 These are important changes to important programs.
23 They are big steps, but responsible steps. We will be
24 watching implementation closely, but we have every hope
25 that these changes will work and that they will work well.

1 I want to thank you, Chairman Roth, for your leadership
2 and for trying hard to accommodate all of our concerns in
3 the document that we are considering today. You and your
4 staff have done a very good job, in my opinion.

5 I particularly want to thank you for working with me,
6 Senator Chafee, Senator Grassley, and Senator Pressler to
7 work out an agreement to preserve services at federally-
8 qualified health centers and rural health clinics. You
9 know this is a special interest of mine, and I want to
10 thank you personally for it, and your staff as well.

11 As the Chairman knows, another concern of mine is the
12 impact of Medicaid reform on the provision of health care
13 to Native Americans through the Indian Health Service
14 program. This issue is of particular concern to me because
15 I have come to know and appreciate the important and
16 critical role the IHS plays in serving some of the neediest
17 people in our society.

18 Let me just say that, overall, I am pleased with the
19 general policy direction that the Chairman's mark provides.
20 The problem, however, is with respect to the funding levels
21 authorized in this bill. These levels are simply
22 inadequate to meet the critical obligations of the IHS to
23 serve America's first residents.

24 Accordingly, Senators Pressler, Murkowski, and I do
25 plan to offer an amendment that will ensure adequate levels

1 of funding for Medicaid reimbursement for services to
2 Native Americans. This is something about which we
3 continue to feel strongly, so I want to thank you, Mr.
4 Chairman, for your work in this area.

5 The Chairman. Thank you, Senator Hatch.

6 Senator Bradley?

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1 OPENING STATEMENT OF THE HONORABLE BILL BRADLEY, A U.S.
2 SENATOR FROM NEW JERSEY

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4 Senator Bradley. Thank you very much, Mr. Chairman.
5 I will not be able to support this bill. I regret that
6 Medicaid and welfare were linked. I think that Medicaid is
7 still a block grant and I think that there is insufficient
8 funds, really, to cover the unpredictable ebbs and flows of
9 program enrollment.

10 In the welfare part of the bill, I would associate
11 myself with the remarks of Senator Moynihan. I simply do
12 not believe that members of the committee understand the
13 impact that this bill will have on the cities of this
14 country. If they did, I do not believe that they would
15 take this step.

16 I think that Title 3 of the bill is a very good title,
17 the child support enforcement section. It is, I believe,
18 a section that should be exempted, taken out of the bill,
19 and moved separately on its own.

20 I think it is a section that there would be broad
21 agreement that could pass and get the President's
22 signature; I have heard the President say those exact words
23 on television.

24 It is a bill whose premise is, if you have a child you
25 should support that child. I think, at the end of the day,

1 that might be that is where we will be. But we have to, I
2 guess, go through this exercise before we get to that
3 point.

4 My basic problem with the welfare section of this bill
5 is that it really is not going to repair what is wrong with
6 the welfare system. It does not change the disincentives
7 to work, to marry, or to become independent, but it does
8 change completely the one thing about welfare which has
9 made sense, and that is the financing system, that States
10 now get money for welfare based on the number of cases they
11 have and how much help families need, varying from 50 to 75
12 percent, depending on States.

13 Well, that is a system, to me, that makes sense. It
14 means that when the need is greatest, as in a recession,
15 States get more. When times are good and welfare case
16 loads decline, not only do States get less help, but
17 taxpayers save money.

18 To make the political point that we are, as Newt
19 Gingrich says, "abandoning the welfare state," we are in
20 this bill kicking the foundations out from under the
21 system. We are simply transferring pots of money from one
22 politician at the federal level to another politician at
23 the State level without regard--sufficient regard--to need
24 rules or accountability.

25 When times are tough, States will not have enough money

1 and children will undoubtedly suffer. When times are good,
2 States will have extra money, more than they need, and
3 taxpayers will not save money.

4 In fact, this bill would increase the amount of money
5 spent on basic welfare payments other than SSI and food
6 stamps by \$3 billion. That is \$3 billion to buy the
7 support of governors.

8 I think this demonstrates that conservatives can throw
9 money away as recklessly as liberals, and also that it is
10 possible to spend more money on a program at the same time
11 we break the foundations of the program.

12 The measure of welfare reform, to me, is not the money
13 we spend, it is whether the program succeeds in moving
14 people into the mainstream of this society. Block grants
15 do not make sense. They mean not only that individuals
16 will suffer in hard times, but that taxpayers will not
17 benefit from reduced AFDC case loads.

18 Let me share with you some interesting data that
19 underlines the point that I have just made. In
20 Massachusetts, the AFDC case load declined from 1992 to
21 1995 by just under 3,000 people. Good news. But the SSI
22 disability case load rose by just under 3,000 people, and
23 the SSI disability program is not a 50/50 match, it is
24 fully federally funded and it usually pays more than AFDC.

25 In Michigan, the number of adults on AFDC went down by

1 30,000, and the number of adults classified as disabled on
2 SSI went up in that period by 22,000. You know, it was
3 maybe not a coincidence; both States hired the same firm
4 for getting people off of welfare and onto the SSI program.
5 Not bad work, if you can get it.

6 In other words, governors are just shifting some of the
7 people who are leaving welfare from federal/State AFDC to
8 fully federal SSI. Are all the people who leave welfare
9 going to SSI? Absolutely not. Do many of the people who
10 go on SSI deserve it? Certainly. But what is the point
11 here? There are just two points, and I close with those.

12 First, this block grant is predicated on the idea that
13 governors are geniuses at helping welfare recipients become
14 independent and the Federal Government is not. In fact,
15 governors are pretty smart about manipulating federal
16 funding streams to maximize their revenues, and no better
17 than anyone else at finding real jobs for people who are
18 now on welfare.

19 Second, I think this illustrates the unintended
20 consequences of shifting to a block grant. Consider what
21 would happen with a block grant. States could shift
22 welfare recipients to SSI and they would be fully taken
23 care of by the Federal Government. Fully taken care of.

24 Meanwhile, the State would be getting welfare funding
25 based on its 1995 case load, or even, under this bill, an

1 earlier period, so the State would still be getting funding
2 for the individual who had been moved to the federal SSI
3 program.

4 In other words, the federal taxpayer would pay twice.
5 The State would get a bounty of several thousand dollars,
6 depending on its benefit levels, for increasing case loads
7 under this other federal program.

8 So, Mr. Chairman, I think that we can do better than
9 this. I think block grants are a mistake. I think they
10 will either end up costing the federal taxpayer more, or we
11 will end up with cities like Newark, New York, Chicago, and
12 others with thousands of children that have been cut off of
13 the pittance that now qualifies as a federal AFDC payment.

14 If I have my guess as to what is going to happen, in
15 the end that will be the result. The governors will not
16 suffer; they will find some way to manipulate the system.
17 They will hire somebody to push off the funding stream
18 somewhere else.

19 It will be the poorest children in our society who will
20 take the brunt of this bill, and I am sorry that it is a
21 bill that has broad support on both sides of the aisle
22 because I view it as a fundamental shift in a commitment to
23 at least provide a pittance for poor children in this
24 country.

25 The Chairman. Senator Simpson.

1 OPENING STATEMENT OF THE HONORABLE ALAN K. SIMPSON, A U.S.
2 SENATOR FROM WYOMING

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4 Senator Simpson. Well, we were having a series of
5 cordial little visits in there these last few days. I do
6 not know what the purpose of all that was. It was
7 dazzling. But since I have been out here, I hear words
8 like brutal, and veto-bait, and dead meat, and children
9 perishing. I guess, here we go. That is the way it works
10 in this place.

11 If anyone could think that we know what we are doing
12 here, I would like them to check the box off at the door as
13 to what we have done at the Congressional level. What we
14 have done is a failure, so why not give the States the
15 opportunity to try something different? We have now a debt
16 of \$5.4 trillion.

17 If we do every evil thing that the Republicans have in
18 mind to do to try to write the system and get it all
19 passed, the debt at the end of seven years will be \$6.4
20 trillion, and everybody knows that.

21 There is not a soul at this table that does not know
22 that, that the debt at the end of this atrocious Republican
23 effort will be 6.4 trillion bucks and the American people
24 will say, well, they said they had balanced the budget.
25 They may have, or we may have, partisan way or bipartisan

1 way, but all we have done is balanced the budget with
2 regard to the deficit. The debt continues to eat a hole
3 through this entire society and we do not deal with it at
4 all, not one bit.

5 So if we want to talk about the brutal impact on
6 children and the lesser and so on, I can tell you, it is a
7 failure to deal with Medicare, with Social Security, with
8 affluence testing, with CPI. That is a total flight.

9 If you really care about children, then you should get
10 in the game and you should do something with CPI and you
11 should do something with affluence testing, of cost-of-
12 living allowances.

13 Part B premiums. Absolutely atrocious, where 25
14 percent of the premium is paid by Joe Gotrocks and 75
15 percent of the premium is paid by the people in the kitchen
16 over in the Senate dining room, and we have to listen to
17 this continual line of babble about the children. So if
18 anybody would like to get into the game, then go read the
19 trustees' report one more time about what is happening with
20 Medicare, which will go broke in four years. Whoever the
21 next President is will probably be stoned ---- I do not
22 mean it in that sense.

23 [Laughter]

24 Senator Simpson. [Continued]. Will probably be
25 stoned by the fact that they will say, well, you knew all

1 of this and you did not do a thing about it, you did not
2 ever say anything. You did not tell us that if we just
3 started now we could save the system.

4 You did not tell us we could just mess with this, and
5 do this at this end, which is what the trustees are telling
6 us to do. Everything here we must do is immediate. Every
7 day you wait, every month you wait ---- and guess who is
8 going to pay the bill, ladies and gentlemen? The children.

9 So if we can just spare the horrible pain of listening
10 about the children, because when the children are my age
11 they will be picking grit with the chickens. And if
12 anybody cannot figure that out, in all honesty, simply by
13 reading, if you can read and write, then read the
14 intergenerational accounting problems, read about the
15 trustees' report on Medicare and Medicaid. Read it.

16 The whole purpose, and the way we will get out of it,
17 according to most learned experts of those who plead this
18 way, are simply raising the payroll taxes. Well, guess who
19 pays that? The seniors will not pay it, the children will
20 pay it. Disregard then the intergenerational accounting of
21 the President's first budget. It was a good one, and then
22 he left it out, forever again, because of politics.

23 Read again the trustees report. Read about the
24 entitlements. Read about the fact that people born today
25 will be paying 82 percent of their income in taxes. How

1 about that for the children? I am telling you, this is
2 interesting business.

3 To paraphrase my old friend from New Jersey, whom I
4 love and he is a wonderful guy, that the members really do
5 not understand what will happen here today, if we are
6 talking about the children. We do not understand at all
7 what is going to happen to the children.

8 What I do, and so do those who served on the
9 Entitlements Commission, know exactly what will happen to
10 the children. We say that governors will do this when
11 times are tough and they will do this when times are good.

12 Let me tell you, there will never be times that will be
13 good. There cannot possibly be times that will be good
14 because there is no way that they can be good with a debt
15 that will go from \$5.4 trillion to \$6.4 trillion in the
16 next seven years, even if we did every savvy jack that the
17 evil Republicans are up to. You know that, and I know
18 that.

19 The children are doomed in this process. We talk about
20 manipulating the problem, manipulating the system. That is
21 what we have done, and that is how we got here. We cannot
22 find a way out because it is too politically hot, period.

23 I commend Senator Chafee and Senator Breaux, and will
24 go over the cliff with them again and again and again.
25 They are the two people with the guts enough to at least

1 start to do something instead of babble into the vapors
2 about the children.

3 The Chairman. Senator Rockefeller.
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1 OPENING STATEMENT OF THE HONORABLE JOHN D. ROCKEFELLER IV,
2 A U.S. SENATOR FROM WEST VIRGINIA

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4 Senator Rockefeller. Did I hear that last part
5 correctly, "babble into the vapors about the children?"

6 Senator Simpson. Babble into the vapors, yes. That
7 is it.

8 Senator Rockefeller. Mr. Chairman, you have done a
9 lot of things to improve these combined bills. I think
10 that a lot of the credit for that goes not only to you, but
11 also to Senator Chafee, who understands these things, as a
12 former governor, very, very well.

13 The point really is that we still have a block grant on
14 welfare. The point really is that, because the Federal
15 Government has not met perfection in the way it administers
16 the program is not to assume that the governors can do as
17 well.

18 In fact, the temptation for the governors to do
19 substantially less well is much greater. It was the
20 governors, after all, who started the scam programs on
21 provider taxes in order to create more money for
22 themselves.

23 The governors are faced every day, those of us who have
24 been through that experience, with decisions on plants that
25 are trying to figure out whether to locate in West

1 Virginia, Indiana, or Kentucky, or South Carolina, and the
2 interest tends to be how much of a State package can you
3 put up to entice them.

4 If you have to pick between a BMW plant and poor
5 children, guess who is going to win? It is going to be the
6 BMW plant, and the poor children are going to win. The
7 Federal Government is not tempted by those things. That is
8 the reason that the distance of the Federal Government
9 actually, I think, makes it a more honorable process.

10 I regret enormously, as I told the Chairman inside,
11 that these two programs are linked. I honestly do believe,
12 and I say this without rancor, that the reason that they
13 are linked is so that the President will be forced to veto
14 the bill and it can be, therefore, tacked upon him,
15 unjustly, but it will be factually correct that he vetoed
16 a welfare bill.

17 We all know that the people in this country want a
18 welfare reform bill. We know that the people on both sides
19 of the aisle in this committee want a welfare reform bill.

20 But to put in a Medicaid bill and to attach that, a
21 Medicaid bill that guts so much, that takes, in fact, \$250
22 billion if you include the federal and the States share,
23 away from the poor, then you know the President is going to
24 veto that. The President comes from Arkansas; I come from
25 West Virginia. 360,000 people in West Virginia depend upon

1 Medicaid. I cannot be blind to that. He cannot be blind
2 to the country's needs, so of course he is going to have to
3 veto the Medicaid bill, and, in so doing, he will therefore
4 have to, by definition, veto the welfare bill.

5 And my friends on the other side of the aisle will be
6 able to say, there you go, you see, he vetoed the welfare
7 reform bill, and it becomes a Presidential campaign tool.
8 That is what I think is the saddest thing about this mark-
9 up of all. The saddest thing about this mark-up of all.

10 The Chairman indicated, both inside and outside this
11 meeting room, that the reason was because you do not want
12 to create an incentive for people to get back onto welfare,
13 and therefore Medicaid is important, and back and forth.
14 The fact is, there are fewer people on welfare in States
15 like West Virginia.

16 The fact is, with the Earned Income Tax Credit, which
17 is hurt somewhat in this, and if we were ever to pass a
18 minimum wage bill--which we would do if we could get it
19 voted on because there are enough Republicans to go along
20 with the Democrats to pass it--we could lift the majority
21 of families in this country out of poverty. What an
22 absolutely glorious thing that would be. We would have to
23 worry about so many fewer things.

24 But I think the course is set. There is no guarantee.
25 There is no federal right of action. There is no

1 prescribed benefit package which is adequate. The so-
2 called famous Umbrella Fund works for the first year, and
3 then it sort of stops. Five years, and you are out. Some
4 States, at their option, could make it two years and they
5 are out. Then there is nothing for the children. Those
6 children who then get cut off because there is nothing
7 there at all for them will be, indeed, looking at vapors.

8 I thank the Chairman.

9 The Chairman. Senator Pressler.

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1 OPENING STATEMENT OF THE HONORABLE LARRY PRESSLER, A U.S.
2 SENATOR FROM SOUTH DAKOTA

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4 Senator Pressler. Thank you, Mr. Chairman. I shall
5 summarize, very much, first of all, thanking you for
6 working on the Workfare amendments, on which I am working
7 with several other Senators, including Senator Hatch. I
8 will place that part of my statement in the record.

9 [The prepared statement of Senator Pressler appears in
10 the appendix.]

11 Senator Pressler. I did want to make a remark about
12 the Indian Health Service treatment. The provision of
13 Medicaid services to Indian Health Service-treated Indians
14 is 100 percent a federal responsibility.

15 Now, the State of South Dakota did not make an
16 agreement with the Federal Government or the tribes on this
17 matter and, therefore, should not have to reach into its
18 own pockets to ensure that an agreement made solely between
19 the Federal Government and the tribes is achieved.

20 Now, of concern to me are the potential politics behind
21 the provision of a \$3.5 billion emergency health care fund
22 for illegal aliens. Approximately 15 States will benefit
23 from this fund. Certainly larger States, such as
24 California and Florida, sympathize with the situation of
25 States such as South Dakota, North Dakota, Utah, Alaska,

1 and Montana.

2 However, the difference is, the Native Americans are
3 here legally. Though I agree that all of the Federal
4 Government's responsibilities should be met equitably, I
5 would give a higher priority to Native Americans in terms
6 of meeting funding needs than illegal populations.

7 Unfortunately, it seems to me that the opposite is the
8 case here. We are going the extra mile to provide
9 emergency care to illegal aliens at the expense of the
10 basic health care needs of Native Americans.

11 If the \$3.5 billion alien fund was established to meet
12 the 100 percent federal responsibility for this specific
13 population, where is the reasoning behind requiring South
14 Dakota and other States to pick up the tab for its
15 beneficiaries that are 100 percent the responsibility of
16 the Federal Government?

17 Doing otherwise implies we are more willing to meet the
18 emergency needs of illegal aliens than providing basic care
19 for our own Native Americans. This is not right. Funding
20 should be equitable across the board and any priority first
21 given to people having a binding agreement with the Federal
22 Government.

23 Finally, I commend the Chairman for establishing a
24 safety net fund for rural and community health centers.
25 Community health centers and rural health clinics provide

1 care to over 130,000 South Dakotans, many of them low-
2 income, uninsured, or living in medically under-served
3 areas. These cost-efficient facilities provide a safety
4 net for those with few health care alternatives.

5 All in all, Mr. Chairman, this bill represents progress
6 and a clear commitment to Workfare and Medicaid reform. At
7 present, both programs threaten to bankrupt future
8 generations. We have the opportunity to preserve programs
9 to help those most in need without imposing more fiscal
10 hurt on our young people.

11 Thank you, Mr. Chairman.

12 The Chairman. Well, thank you, Senator Pressler. As
13 you know, we have worked very hard with you to try to reach
14 your goals on the work requirements, and, of course, we
15 have also been trying to cooperate with you and others on
16 the critical question of the American Indian.

17 Senator Breaux.

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1 OPENING STATEMENT OF THE HONORABLE JOHN BREAUX, A U.S.
2 SENATOR FROM LOUISIANA

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4 Senator Breaux. Thank you very much, Mr. Chairman.
5 I want to say thanks to you and also to the staff on both
6 sides of the aisle for the great work that has been done on
7 preparing this package. It is much better than it started.

8 There was a great deal of work last night, where
9 amendments were offered to both sides, which are now
10 incorporated in the package and I thank the Majority and
11 the Minority staff that has worked very well to put it
12 together to the point where we are now.

13 Mr. Chairman, I would just say that the government's
14 obligation and responsibility to help less-advantaged
15 Americans has to be more than just providing them with a
16 check. It has to be a program that involves providing
17 opportunities to get away from the government check and
18 into a real job in the real world. It also has to be, as
19 President Clinton has said, a program that is tough on work
20 but yet is still good for children, who are the innocent
21 victims in any of these situations.

22 Any reform on welfare must have time limits. Welfare
23 cannot be forever. It must also have work requirements,
24 because that teaches responsibility to the people in our
25 country. It also, very importantly, must take care of

1 children after those time limits on welfare programs
2 expire. That is absolutely essential.

3 I said before that the draft is good, but it can be
4 better. That is why we are here for the mark-up. However,
5 I think we do have the opportunity to come together on an
6 agreement on the welfare program, real reform that this
7 President would be willing to sign.

8 However, we are miles apart on Medicaid. Therefore, I
9 would suggest that we should pass what we can agree on and
10 work on those items on which there is no agreement. That
11 is the way you legislate. You do not patch up and match up
12 things you agree with with things that there is no
13 agreement.

14 With regard to Medicaid specifically, the money simply
15 does not follow the people who are eligible for the
16 program. As the Democratic governors said after they saw
17 the draft, "Any guarantee to provide coverage without
18 funding is a meaningless guarantee." I am concerned that
19 what we have here is a package that guarantees certain
20 things but does not provide the money to pay for those
21 guarantees.

22 So the governors are correct when they say that a
23 guarantee without funding is a meaningless guarantee, and
24 I think that is what we have with the current Medicaid
25 proposal.

1 I would suggest also that there is a problem because
2 there is no opportunity for federal enforcement of what is
3 essentially a federal program. If you have a federal
4 program that you can only enforce in 50 different States
5 with 50 sets of case history and laws, well, then you do
6 not have a true national program.

7 We are about to create the only national/federal
8 program in which you cannot go to federal court to enforce
9 federal standards. I think that is a serious mistake.

10 Speaking of standards, there is no federal standard for
11 disability in what is supposed to be, again, a national
12 program. You can conceivably have 50 different standards,
13 rules, and regulations as to what constitutes disability to
14 be eligible for Medicaid. That is not the way to establish
15 a federal/national program.

16 So, Mr. Chairman, I commend you and others who have
17 worked so hard to put together a package that is clearly
18 better than it was, but still can be made a lot better.
19 Hopefully we will be able to do so during this mark-up.
20 Thank you.

21 The Chairman. Thank you, Senator Breaux.

22 Senator D'Amato.

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1 OPENING STATEMENT OF THE HONORABLE ALFONSE M. D'AMATO, A
2 U.S. SENATOR FROM NEW YORK

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4 Senator D'Amato. Thank you very much, Mr. Chairman.
5 Let me make an observation. We have been talking about the
6 welfare system now. This makes great campaign ads. The
7 President said he is for reform, and vetoes essentially the
8 same bill that we are going to be speaking about, although
9 it was passed 87 to 12. I think our rhetoric is terrific
10 and our performance is lacking. It is not enough to say we
11 really want this reform and then we stop the reform.

12 In the area of Medicaid and Medicaid funding, it
13 continues to grow at a rate that will bankrupt this Nation.
14 Let us understand that. The States cannot continue to
15 afford this, yet we say, can we trust the States? We have
16 not done a very good job.

17 I cannot believe that if we begin to look at the
18 various governors, Democrats or Republicans, that we are
19 really taking the position to say that somehow they are
20 going to be heartless, cruel, et cetera, and they are going
21 to throw old people and children and abandon them out onto
22 the streets.

23 Now, maybe that has been the perception that some of my
24 colleagues might have on close examination as it relates to
25 their own States, but I have not seen that take place. I

1 cannot believe, to be somewhat personal now, that Governor
2 Lawton Chiles is going to permit the elderly and children
3 to be abandoned. He was a colleague of ours. He is a
4 governor in the State of Florida. Is he really going to do
5 that? I know that our governor in the State of New York,
6 a Republican--Lawton Chiles is a Democrat--is not going to
7 turn his back on the needs of our people.

8 But what they are asking for is some flexibility, and
9 what we are doing is conjuring up every possible motive not
10 to give up the power. We want the power. I think we are
11 building artificial excuses to continue the power here in
12 Washington.

13 Now, if we believe that the States are closest to the
14 people and that our local officials should have the ability
15 to deal with the differences and the nuances that come up
16 every single day even with a State, a program that may work
17 in one part or one region of the community or State may not
18 be applicable and may not work as well in an urban setting
19 as opposed to a rural setting, or vice versa.

20 So let us give to our governors the ability to manage
21 these programs. Then with the business of saying, oh,
22 well, we want to make sure they spend the same amount of
23 money that we are sending to them, et cetera, give them
24 some incentives to be able to manage.

25 Let them be able to shepherd their resources. They may

1 not use them exactly in a Medicaid program, but maybe they
2 will use them in the sheltered workshop program,
3 understanding the needs and the demands that come from
4 local constituencies are not going to be diminished.

5 By the way, I am not suggesting, for those colleagues,
6 there are numerous areas that I disagree with in this bill.
7 This is not a perfect bill by any stretch of the
8 imagination. But look at the horror that we are dealing
9 with now.

10 Why should 26 States be disadvantaged and only get
11 reimbursed as it relates to 50 cents on the dollar in
12 Medicaid, and you have another State that gets 80 cents on
13 the dollar? Why? Why should the State, if it is going to
14 manage the resources, and if you are going to encourage
15 them to manage the resources, not build in some savings so
16 that they are willing to make some of the tough choices?

17 This bill provides an opportunity for 26 States to be
18 reimbursed on a more equitable formula. It will not cost
19 the Federal Government any more money, but you have a 60/40
20 match instead of the match that New York now operates
21 under. Hopefully we will be able to save some resources,
22 then the governor and the legislature will make
23 determinations as to where to direct those resources.

24 If we want to say, oh, no, we should not be paying for
25 it from Washington, we have the ability to tell you exactly

1 where, I want to suggest that is exactly the kind of
2 attitude that has built this huge, monstrous program that
3 does not meet the needs of every community, let alone every
4 State, let alone every individual.

5 By the way, let us understand, we are going to pass
6 this, it will be a party line vote, and the President is
7 going to veto it. So let us not get too exercised.

8 I thank the Chairman.

9 The Chairman. Senator Conrad.

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1 OPENING STATEMENT OF THE HONORABLE KENT CONRAD, A U.S.
2 SENATOR FROM NORTH DAKOTA

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4 Senator Conrad. Mr. Chairman, I, too, want to join my
5 colleagues in thanking you for the acceptance of many of
6 the amendments that I had offered, both with respect to the
7 welfare package and with respect to the Medicaid package.

8 I think the final comment and statement from the
9 Senator from New York sums up the reality of what we are
10 facing, and perhaps the tragedy, because what he said is
11 exactly the truth. We are going to pass this on a party
12 line vote, the President is going to veto it--and in my
13 judgment he should--and so nothing happens.

14 It is no wonder people are kind of disgusted with what
15 is going on in Washington. There is a real problem out
16 there. The welfare system is not working very well. The
17 Medicaid system is increasing in cost in a way that cannot
18 be sustained; Senator Simpson is certainly correct about
19 that.

20 But, unfortunately, instead of really working together
21 to put together a package that could not only pass Congress
22 but would be signed into law, what we are engaged in is a
23 political process in which a package is put together that
24 combines welfare reform with Medicaid reform because
25 everyone knows the President would accept the welfare

1 provisions but cannot accept the Medicaid provisions so he
2 will veto the whole bill.

3 So this is just a political exercise in order to score
4 partisan political points in an election year. That is
5 really what is happening here. It is terribly unfortunate,
6 in my judgment, that we keep doing this to each other. And
7 neither of us are exempt, because everybody is playing this
8 game. It is no wonder the American people are increasingly
9 upset and frustrated with what goes on here.

10 I understand the need for partisan differences, but I
11 really wonder, at what point are we going to stop this and
12 really be serious? The most rewarding thing I have done
13 around here in the 10 years I have been here was the
14 Chafee-Breaux group.

15 Senator Chafee, a Republican, Senator Breaux, a
16 Democrat, and our group of about 20 Senators, evenly
17 divided between Republicans and Democrats, for five months
18 really did work to come up with an overall budget plan that
19 dealt with welfare reform, Medicaid reform, Medicare
20 reform, domestic discretionary spending, on a bipartisan
21 basis. There were no press conferences, there was no
22 cheap-shotting each other.

23 There was an actual attempt to agree, to put together
24 a package that could pass, and that could be signed, and
25 that could become law that would put this country on a path

1 towards getting its fiscal house in order.

2 We got 46 votes on the floor of the United States
3 Senate, with the leadership of both parties in opposition.
4 A fascinating exercise; 46 votes, the leadership of the
5 Republicans, the leadership of the Democrats, opposed to
6 it. It was a pretty good compromise.

7 Senator Simpson, when he says we are on a path that
8 cannot be sustained, we all know that is true. It is self-
9 evident that we have got to do something about it. It is
10 also true when Senator Bradley and Senator Moynihan said
11 children are threatened by what is before us. There is no
12 question about that. There is no question about that.

13 I mean, I look at the State of New York. Under this
14 bill, in the year 2005, New York will get \$15.9 billion in
15 Medicaid funding. Under current law, they would get \$31.2
16 billion. They are going to have half as much money to deal
17 with the Medicaid-eligible population.

18 Well, they had better be geniuses, because if they are
19 not geniuses there are going to be an awful lot of people
20 that are going to be hurt. This, fundamentally, is a law
21 that goes from current federal law to a block grant, which
22 amounts to a blank check, I am afraid, to States.

23 In the Chafee-Breaux group, we did it a little
24 different way. We did give enormous increased
25 flexibilities to States; that makes sense. But we also had

1 a basic guarantee so you could be sure that, if people were
2 eligible, they would get help.

3 Well, that is enough said, Mr. Chairman. I just wish,
4 at some point, we would get together and really do this in
5 a bipartisan way and get the job done for the American
6 people.

7 The Chairman. Senator Gramm.

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1 OPENING STATEMENT OF THE HONORABLE PHIL GRAMM, A U.S.
2 SENATOR FROM TEXAS

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4 Senator Gramm. Mr. Chairman, we passed a welfare
5 reform bill with 87 votes, and the President vetoed it. I
6 do not know what is bipartisan about that. I do not
7 believe we all support welfare reform, and I do not believe
8 President Clinton supports welfare reform. I think he
9 wants political credit for it, but I do not think he is
10 willing to make changes.

11 Let me also note, if we are basically crying about the
12 loss of bipartisanship, the Chairman took 52 Democrat
13 amendments on this bill. Let us see how many Democrat
14 votes we get for this bill. My guess is, none.

15 There are 200 million Americans who live in families
16 who do not get Medicaid, who do not get Medicare, who do
17 not have Senator Chafee guaranteeing their benefits, but
18 yet they benefit from work and family and pay not only for
19 their benefits, but they pay for all the benefits we are
20 debating here, whether or not we are going to give to other
21 people, in what form we are going to give it, and how we
22 are going to pay for it.

23 I want to reform Medicaid for those people. There is
24 no way we can sustain a program that, in the last six
25 years, has grown at 15.1 percent a year. The average

1 working family with two children, which in 1950 sent one
2 out of every \$50 it earned to Washington for us to spend,
3 is today sending one out of every \$4. To pay for the
4 government we have committed to, if we do not create a
5 single new program, in 30 years they are going to be
6 sending one out of every \$2. That is what this debate is
7 about.

8 I would like to also note that, while I am very proud
9 of what the Chairman has done, I am not so excited about
10 this bill. Last year, we passed a bill to reform Medicaid
11 over a seven-year period to save \$163 billion, and then it
12 fell to \$133 billion, and now we are down to a six-year
13 savings of \$71 billion. In no way are we really getting to
14 the fundamental problem here, but it is an important first
15 step and I think it is imperative that we take it.

16 Let me also say that this bill is full of rotten basic
17 conflicts. The whole idea behind the Medicaid reform, as
18 we have sold it as Republicans ---- and let me make it
19 clear, this is not something the Democrats have been part
20 of. They love the system as it exists now. They do not
21 want the government to get out of it, they want to control
22 welfare, they want to control Medicaid.

23 Now, they will not walk the streets of the cities that
24 their programs have created at night, they will not send
25 their children to the schools that are the product of it,

1 but they have not told us how they would change it.

2 We Republicans, on the other hand, have claimed we are
3 doing something that increasingly we are not doing. There
4 is a little bit of hypocrisy in what we are doing. We are
5 claiming that we are going to let the States run their own
6 program, meet their own needs, tailor their program to the
7 things that will work for the people they are trying to
8 help in their State, and yet there are people who do not
9 believe that governors care about people.

10 There are people right here in this Senate, on this
11 committee, who believe that if we did not make States take
12 care of people, that governors and State legislators in
13 Texas love children in Texas less than Senators from other
14 States love children in Texas. I absolutely and totally
15 reject that. We have a bill now that sets out all kinds of
16 constraints about how far people can live from access to
17 care, it sets all kinds of federal standards which the
18 States have got to fund.

19 So what we are doing is we are saying, all right, you
20 came here. All of you remember, we had all these governors
21 here. They made these presentations. They said, if you
22 will give us this amount of money we can make it work, and
23 unanimously, on a bipartisan basis, they took that
24 position. What we are in the process of doing is giving
25 them the money, but we also are having a healthy hand in

1 telling them how to run the program.

2 Now, there is not an inconsistency in the position of
3 our Democratic colleagues; they want the government to run
4 this system at the federal level. The problem is, that has
5 not worked, there is no evidence it is going to work, and
6 it can bankrupt the country and probably will if we do not
7 do something about it. But we do have an inconsistency on
8 our side. We are going to have to decide, if we want to
9 tell people how to run it, it has got to be a federal
10 program.

11 If we are going to let the States run it, I think they
12 can make it work. It is clear we have not made it work.
13 So, while I intend to vote for this bill today, I want to
14 get rid of some of these State mandates when we get to the
15 floor, when we get to conference, because we cannot, as
16 Republicans, have it both ways. We cannot have the
17 government tell you how to run it and then count on the
18 States to save money.

19 The Chairman. Senator Graham.

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1 OPENING STATEMENT OF THE HONORABLE BOB GRAHAM, A U.S.
2 SENATOR FROM FLORIDA

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4 Senator Graham. I, too, wish to thank you for the
5 openness with which you and other members of the committee
6 have received ideas from all sources and incorporated many
7 of those into the legislation that is before us.

8 I just want to speak to two points. One, as has been
9 said, this is a Kabuki dance that we have currently engaged
10 it. It is not going to result in legislation that will
11 change either welfare or Medicaid law in the United States.

12 I think that it will be unfortunate if this Congress
13 goes home in the fall of 1996 with exactly the same welfare
14 and exactly the same Medicaid system as we arrived with in
15 January of 1995.

16 I would urge that after we have finished this dance,
17 that we come back to the ballroom with a commitment to
18 identify those areas in which there is broad agreement. I
19 agree with my phonetic cousin from Texas that we need to
20 give States a greater degree of flexibility. I think there
21 is broad consensus.

22 I think we ought to repeal the Boren Amendment. That
23 is in this bill, and there is broad consensus for that. I
24 think we need to do something about the disproportionate
25 share hospital issue. I believe there is a broad consensus

1 on that.

2 Why do we not pick out those areas on which we agree
3 and let us do it. We will save a substantial amount of
4 money and we will demonstrate that at least we are not so
5 gridlocked that we cannot do the obvious important and
6 relatively noncontroversial items.

7 Second, is in the welfare bill, I restate my concern
8 about the fact that we are financing much of the reforms of
9 welfare not from efficiencies within the welfare system,
10 but rather by a reduction of eligibility benefits for legal
11 aliens.

12 In the Illegal Immigration bill which is currently in
13 conference, there are eligibility restraints on legal
14 aliens which have a total impact, over seven years, of
15 approximately \$6-7 billion. This bill, over the same seven
16 years, has an impact of \$23 billion on legal aliens. This
17 represents a massive cost shift to the States.

18 I would analogize what we are doing with legal aliens
19 to the children's game of musical chairs. We have got four
20 basic participants in this exercise. We have got the
21 Federal Government, we have got the legal aliens, we have
22 got the sponsor of the legal alien, and then we have got
23 the local provider of services, typically a public
24 hospital.

25 Now, what is going to happen is that, when the music

1 stops, the Federal Government is going to sit down because,
2 by virtue of this bill, it has abdicated much of its
3 responsibility, the legal alien is going to be unable to
4 pay the bill, the sponsor is, in many cases, going to be
5 unable to pay the bill, and so who is going to be left
6 without a chair? That is that local provider, primarily a
7 local health care provider and primarily a public hospital.

8 So the consequence of this is going to be a massive
9 cost shift. We started out this year saying that at least
10 one thing we would do is we would avoid these mandated
11 costs on the States.

12 The first bill introduced in the Senate was S. 1, which
13 was the unfunded mandate bill. It was one of the first
14 bills passed by the Congress that the President signed. We
15 are now stating that we were disingenuous in that effort if
16 we pass this bill with this enormous cost shift to the
17 States and local communities.

18 I will be introducing an amendment which I hope will
19 avoid us being subject to that charge of hypocrisy.

20 Thank you, Mr. Chairman.

21 The Chairman. Senator Moseley-Braun.

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25

1 OPENING STATEMENT OF THE HONORABLE CAROL MOSELEY-BRAUN, A
2 U.S. SENATOR FROM ILLINOIS

3
4 Senator Moseley-Braun. Thank you very much, Mr.
5 Chairman. I want at the outset, I think particularly for
6 people who do not watch what Senator Graham has called this
7 Kabuki often, that they understand that some of the harsh
8 words that are used are not intended personally with regard
9 to any member, because we all work together and have to
10 work together, and enjoy working together as we grapple
11 with these very difficult questions for our country.

12 But I have to say, in opposition one of my friends and
13 colleagues who said that what we were saying was babble
14 when we talked about children, really, in my opinion, the
15 legislation--even though you have worked on it, and
16 massaged it, and tried to get it to where it is--based on
17 its fundamental premise as well as the way the specific
18 issues are treated in the legislation, the welfare part of
19 the bill, in my opinion, represents no more, no less, than
20 legislative child abuse. The fact of the matter is, of the
21 14 million people on welfare, nine million of them are
22 children. Of those nine million children, 60 percent of
23 them are under the age of five.

24 Now, welfare reform should not mean punishing poor
25 children. The welfare system as we know it is no more--and

1 I have said this time and time again--and no less than a
2 response to poverty. It may be a flawed response. It may
3 have to be tweaked, and fixed, and worked on to provide
4 people with the incentive to be independent and the ability
5 to go out and work and take care of their own children.

6 It has to be fixed to try to address the illegitimacy
7 issue that Senator Moynihan has talked about time and time
8 again. It has to be fixed to deal with the perception of
9 unfairness of it that a lot of people sense when they look
10 at the whole issue.

11 But, in my opinion, this legislation is no way to fix
12 it. The whole premise of this bill focuses in on the
13 parents. By focusing in on the adults, we conveniently
14 ignore the children. This bill does not reform the
15 circumstances of their lives, but rather destroys what
16 exists and puts in a draconian substitute.

17 The fact is, kicking the problem, as one of my other
18 colleagues said, from one set of politicians to another, as
19 this legislation does, does not address the issue of what
20 happens to the children. It does not answer the question.
21 By pushing the response from the national level to the
22 State and the local levels, it does not answer the
23 question, what are we going to do about the children,
24 people who live in cities, particularly?

25 We have been trying to get an analysis on this, and it

1 has not happened yet. I want to work with Senator Moynihan
2 in getting this. But people who live in cities ought to
3 fear this legislation because the costs are going to be
4 pushed to them.

5 People who live in States with rural poverty ought to
6 fear this legislation, because the costs are going to be
7 pushed to them. The costs of caring for poor children are
8 either going to be borne by communities that are already
9 hard-pressed and strapped in terms of dealing with that,
10 or, alternatively, we will in this country see a
11 reemergence of homeless foundlings in the streets.

12 I do not think that is what we want to do. That may
13 sound dramatic, but no one has debated or argued the fact
14 that this legislation will push 1.5 million children, who
15 are not right now below the poverty line, will push them
16 there. 1.5 million children.

17 No one on this committee and in this legislation has
18 suggested they have an answer to the question of, what do
19 we do about those children? How do we provide for them, or
20 are we just going to, like Pontius Pilate, wash our hands
21 of this problem and tell the States, you go deal with it?
22 Well, I, for one think that is a dangerous experiment and
23 I am not prepared to join in on.

24 The second part is the Medicaid issue. Now, some
25 colleagues have commented on the linkage of Medicaid and

1 welfare. Quite frankly, from my perspective, it is the
2 same core concept between the two of them that is the most
3 troubling, is that we would wash our hands as a national
4 community of dealing with the sick, and the elderly, and
5 poor people, and the disabled in trying to provide health
6 care coverage for them and push it to the States, or, more
7 to the point, push it to the local governments.

8 The cut of \$71 billion over six years, that cut is
9 going to be borne by somebody, somewhere. Nobody in
10 America just lays out in the street for want of health
11 care. The health care gets provided. The only question
12 is, how are we going to pay for it?

13 So, as you push the costs down to the State and local
14 level, that just means that another set of taxpayers are
15 going to be put at risk in terms of trying to address this
16 issue, or, alternatively, we will have old people dying in
17 the streets. We are not going to have fewer old people, we
18 are not going to have fewer sick children, we are not going
19 to have fewer disabled people. This legislation does not
20 fix or address that issue.

21 Among the industrialized nations, Mr. Chairman, America
22 is first in gross domestic product, we are first in defense
23 expenditures, we are first in health technology, we are
24 first in the number of millionaires and billionaires, and
25 yet we are 18th in the gap between rich and poor children,

1 we are 16th in living standards among our poorest one-fifth
2 of the children in this country, we are 18th in infant
3 mortality, which ought to be inexcusable. We are behind
4 Third World nations in infant mortality, 19th in low birth
5 weights, and 23rd in child poverty. This legislation does
6 nothing to fix any part of what ought to be an American
7 shame.

8 I say to you, Mr. Chairman, that this legislation is
9 flawed in its fundamental concept, not the concept that we
10 need to fix our response to poverty, but the concept in
11 terms of the way that we have to go about doing it.

12 I believe that the American people, when faced with the
13 notion of having the kind of Tower of Babel that this sets
14 up with one State doing one thing, another State doing
15 another thing; children starving in one State, well-cared-
16 for in another; old people in one State taken care of with
17 their health care, in another State holding fundraisers to
18 pay for their health care; disabled in one State able to
19 get services, in another State not.

20 When the American people figure out that that is what
21 all of this Kabuki has been about, they will reject this
22 effort and they will reject this approach on the grounds
23 that this is not supportive of the kind of America and the
24 kind of community that we have to be in this country.

25 Thank you.

1 The Chairman. Thank you. The time has now come to
2 have the staff describe the legislation before us. I would
3 ask that we keep that as relatively brief as possible.

4 Ms. Paull. Thank you, Mr. Chairman. The mark-up
5 documents are these documents you have before you--we will
6 not go through every page--as well as the Chairman's
7 modification.

8 But, starting with Title 1, that is the proposal to
9 reform the AFDC welfare program and turn it into a block
10 grant. The block grant structure is substantially similar
11 to the proposal that we had marked up last fall.

12 The structure includes grants, block grants, annual
13 block grants to the States, calculated on the basis of the
14 greater of an average of 1992 to 1994 expenditures, 1994
15 expenditures or 1995, in general.

16 In addition, there is a supplemental block grant for
17 high population growth States, and that supplemental grant
18 is in effect in this bill from 1998 to 2001. There is a
19 contingency fund that the governors' proposal had
20 suggested, with a \$2 billion cap--the original bill had a
21 \$1 billion cap from last year--and in addition adding
22 another way to draw down on those funds if you have a large
23 increase in food stamps.

24 The loan fund for rainy days is still in and, at the
25 request of the governors, there is a performance bonus fund

1 that will be available, \$200 million, of years beginning in
2 1999 to reward States for doing a good job in getting
3 people off of welfare. That is a new item in this bill.
4 It was not in the last bill.

5 Senator Graham. Mr. Chairman, would you prefer that
6 the staff do the complete review before we ask questions,
7 or how would you like to handle it?

8 The Chairman. I think that would be preferable.

9 Ms. Paull. Going on to the work requirements that are
10 shown beginning on page ----

11 Senator Graham. Mr. Chairman, could I ask if the
12 staff, as they do go through, if they would indicate what
13 page in the summary that we have, the material that is
14 being discussed, as outlined.

15 Ms. Paull. All right. The work requirements begin on
16 page 14 of Title 1.

17 Senator Graham. The previous comments relative to the
18 funding allocation; what pages are those on?

19 Ms. Paull. The funding allocation is just before
20 that. Let me quickly look. It is on page six. Starting
21 on page six, the basic funding. The supplemental funding
22 is on page seven. The bonus for high performance is on
23 page eight. The contingency fund is on page nine.

24 With respect to the work requirements, there is a
25 modification to the amounts that are shown on page 14.

1 Beginning in 1997, the minimum percentage is increased by
2 five percent, but the 50 percent, which is reached in 2002,
3 on your document remains the same. That is the maximum
4 percentage.

5 In addition, the number of hours shown on page 16 for
6 families, the work requirement, the minimum number of
7 hours--this would include also some educational hours--has
8 been modified to include, to begin in the year 2002 ---- a
9 requirement of 30 years, 2001, 30 hours, and then 2002
10 forward, 35 hours.

11 These changes are consistent with the previous bills
12 and, in fact, the minimum percentage in the Senate-passed
13 bill, you got to 50 percent at an earlier stage, I think,
14 2000.

15 The work activities which are shown on page 17 include
16 job search, but, again, there was a modification to the
17 bill where the job search could be utilized for 12 weeks,
18 and it is now back down to four weeks, which is where it
19 was in both the Senate bill and the final conference report
20 last year.

21 In addition, I would just point out the five-year
22 lifetime time limit. This has a 20 percent hardship
23 exemption. That is the level that the Senate bill had in
24 it, it had been changed back to 15 percent in conference,
25 and we have stayed with the 20 percent level on that item.

1 The other item that I would point out that is added on
2 to the bill that was in H.R. 4, not in the bill as
3 introduced, is a so-called family cap. There would be a
4 restriction added into this package that would restrict
5 States from using federal funds for additional children
6 born on welfare unless the State legislature affirmatively
7 acted to opt out of that restriction.

8 I would say that that is the highlight of the major
9 changes that were made from last year on this bill, on the
10 welfare part of the bill, without going through every
11 detail of what we had previously enacted. Questions?

12 The Chairman. Questions? Senator Breaux.

13 Senator Breaux. Yes. I would like to ask a question
14 about, what happens to children of parents who have been
15 terminated off of welfare because of the time limit in
16 different situations? If there is a maximum limit of five
17 years, after five years when the shoe drops or the check
18 stops, if a mother has two minor children, is there any
19 assistance under this for the children after the five-year
20 time limit?

21 Ms. Paull. Not under this federal block grant. All
22 assistance to that family ---- they have a five-year
23 lifetime limit.

24 Senator Breaux. There is no option then for the State
25 to give them permission, if they so desire, to do it?

1 Ms. Paull. Other than if they are the 20 percent
2 hardship families, of course.

3 Senator Breaux. Yes, I understand that.

4 Ms. Paull. Yes.

5 Senator Breaux. But, under regular circumstances,
6 even if the State wanted to provide vouchers for children
7 after five years, they cannot do it under this proposal.

8 Ms. Paull. They cannot use federal funds for that.

9 Senator Breaux. Yes. Sure.

10 Ms. Paull. Right.

11 Senator Breaux. How about if the State sets a time
12 limit, say, of two years and the check is cut off to the
13 mother with the same two children; what happens to the
14 children?

15 Ms. Paull. Well, it depends, of course, how the State
16 plan would be operated. The States are free to have a
17 lower lifetime limit under this plan.

18 Senator Breaux. I understand that. Let us assume
19 they have set one in for two years.

20 Ms. Paull. But the State plan could provide, for
21 example, for vouchers or some sort of assistance that is
22 not in the nature of cash after the two years to bring you
23 up to the five-year limit under the federal ----

24 Senator Breaux. Can they provide cash vouchers for
25 the children using federal money?

1 Ms. Paull. Yes, sir. Yes, sir.

2 Senator Breaux. But not after five years.

3 Ms. Paull. But not after five years. That is right.

4 Senator Breaux. All right. So it is optional if the
5 time limit is less than five years and it is prohibited if
6 they have a five-year termination.

7 Ms. Paull. That is right.

8 Senator Breaux. All right.

9 Ms. Paull. One other thing that I have should have
10 pointed out. The maintenance of effort under the bill was
11 set at 75 percent with a possible reduction for high-
12 performance States. They could reduce it to as much as 67
13 percent. The 75 percent amount was modified to be 80
14 percent maintenance of effort, but the performance
15 reduction also continues on.

16 Senator Breaux. I have a question on that, too, if I
17 may just continue.

18 Ms. Paull. Yes.

19 Senator Breaux. On the State maintenance of effort,
20 you say it is at 80 percent. But if it is a high-
21 performance State ----

22 Ms. Paull. Yes, sir.

23 Senator Breaux. [Continued]. They, in fact, would
24 get a monetary bonus for their high performance in reducing
25 their welfare rolls, but would they not also get a

1 reduction in their maintenance of effort percentage?

2 Ms. Paull. They might be eligible for both under this
3 bill.

4 Senator Breaux. So if they do well, we are going to
5 make them do less and give them more federal money?

6 Ms. Paull. Make them do less? Well, what we are
7 trying to do is provide financial incentives for them to do
8 well. Quite frankly, a reduced maintenance of effort may
9 be a bigger financial incentive than they may be able to
10 get under the high-performance bonus arrangement.

11 Senator Breaux. But would they get both?

12 Ms. Paull. They could be eligible for both.

13 Senator Breaux. I mean, do they not get a cash bonus
14 plus a reduction in their maintenance of effort?

15 Ms. Paull. They could be eligible for both, yes.

16 Senator Breaux. Mr. Chairman and my colleagues, that
17 is something that does not make a lot of sense. If we are
18 going to reward a State that does a good job by giving them
19 a cash bonus, i.e., more money because they have fewer
20 people on welfare rolls and then say you have to spend less
21 State money, I mean, Uncle Sam is getting it both ways
22 here. We are telling the State they have to spend less of
23 their money and we are going to give them more of our
24 money, our money meaning federal tax dollars. I mean, I
25 think that is an inconsistency.

1 We can try an address it with an amendment. But, I
2 mean, we should not do both. We should not say they have
3 to spend less of their own money when they do well, but we
4 are going to give you more federal money because you have
5 done well. It does not make sense.

6 The Chairman. Shall we proceed then?

7 Ms. Paull. The second title was ----

8 Senator Graham. Could we ----

9 The Chairman. Yes. Senator Graham.

10 Ms. Paull. Oh, I'm sorry.

11 Senator Graham. These questions relate to the funding
12 formula. To understand the starting point, current
13 allocations to the States are primarily on a matching basis
14 based on how much individual States are prepared to commit
15 to the cash assistance to their qualifying population.

16 If, for instance, a State is willing to provide \$500
17 per month to its AFDC population, it would draw down
18 generally a matching amount, another \$500, from the Federal
19 Government. Is that the basic way in which the current
20 allocation is established?

21 Ms. Paull. The way current law is established, within
22 some ranges, the State does set the benefit amount and then
23 they have a matching percentage and they can draw down
24 again. The Federal Government pays a percentage. It
25 depends. It is between 50 and 80 percent, depending on

1 what the matching rate is.

2 Senator Graham. And focusing, therefore, on just the
3 federal funds that come into a State, could you give us
4 some idea of the range of federal expenditure per person
5 in, let us say, a high benefit State as opposed to a low
6 benefit State?

7 Ms. Paull. Well, I have some figures for fiscal year
8 1994 that would tell you the average monthly benefit per
9 family by State and give you a range. That would be the
10 total monthly benefit, not just the federal share. I guess
11 you are looking for the low and the high?

12 Senator Graham. It does not have to be the absolute
13 low and high, but just a high benefit State versus a low
14 benefit State. What is the range of current disparity?

15 Ms. Paull. Well, you are looking at a range of \$120
16 a month maybe as a low State, and that would be in
17 Mississippi, to a high of \$735 a month in Alaska. The
18 average nationwide--I do not know how useful that is, but
19 just to take an average--is \$376.

20 Senator Graham. So we have a \$376 average, but a
21 range of from roughly \$120 to \$735.

22 Ms. Paull. Right.

23 Senator Graham. Ten years after the formula that you
24 have suggested should be adopted, what do you think the
25 range from the high to the low State will be?

1 Ms. Paull. Well, again, the monthly amounts are set
2 by the State, so we do not really ----

3 Senator Graham. No. I am talking about, in terms of
4 the federal block grant, per capita, what is your
5 projection as to what the formula that is in this bill will
6 result in in 10 years.

7 Ms. Paull. I do not think we have 10-year projections
8 on that.

9 Senator Graham. Well, what do you have, five, six
10 years?

11 Ms. Paull. Actually, I think all we have on that is
12 not a per capita amount but a dollar amount. Basically,
13 again, the way the basic structure would work is, you look
14 to what the State expended, either on average 1992 to 1994,
15 1994 or 1995, whatever the greater of that is, and then
16 that is the level of the basic funding that is not
17 increased by inflation for five years, the length of this
18 program, 1997 to 2001. So, there is not going to be any
19 increase in the bases.

20 Senator Graham. What I am trying to say is, is the
21 philosophy of this bill that the disparities that are in
22 the current system, the \$120 in Mississippi and the \$735 in
23 Alaska, should be continued, exacerbated, or constrained?

24 Ms. Paull. Well, again, that is up to the States to
25 decide.

1 Senator Graham. I am talking about the federal money,
2 in terms of federal funds that contribute to that
3 disparity. Is the philosophy that federal funds over the
4 future years should attempt to narrow disparities, maintain
5 disparities, or facilitate an expansion of disparities? I
6 am talking about what the Federal Government controls as to
7 what the States might do.

8 Ms. Paull. Yes. Well, again, the philosophy of the
9 bill, I think, is to emphasize work and a five-year time
10 limit. There is an adjustment for States that are
11 expecting some population growth in the supplemental growth
12 fund, if that is what you are getting to. But it does not
13 attempt to get everybody to an average, if that is what you
14 are asking.

15 Senator Graham. I guess the question is, what is the
16 policy rationale of the philosophy of continuing
17 disparities which are predicated on the old system, the
18 system that we have all agreed did not achieve desirable
19 objectives, the old system in which if a State was affluent
20 enough it could leverage its federal funds, if it was a
21 poor State, like Mississippi, it could not, and therefore
22 only got a small amount of federal funds?

23 I guess the question is, what is the philosophy in a
24 new system which is going to emphasize work and which is
25 going to require States, in order to achieve that

1 objective, to spend money on job training, child care,
2 transportation and other support services, which will be
3 relatively equivalent from State to State ---- not equal,
4 but relatively equivalent?

5 We are now going to impose a new set of obligations on
6 the States to get people in a position of work, which is
7 going to mean that a State like Alaska can meet those
8 standards fairly easily because it has got a lot of money,
9 and a State like Mississippi is going to be in a very
10 difficult situation trying to meet those standards. What
11 is the policy behind the fund allocation that will help get
12 to the objective of moving people from welfare to work?

13 Ms. Paull. Well, I think, again, the governors came
14 to us and said, we can do more with the same amount of
15 money if you give us the flexibility to do that. That, I
16 believe, is the philosophy behind this bill. There are
17 some ways to try to protect the States, but ----

18 Senator Graham. But why do we not have as a goal, let
19 us give all governors the same amount of money? That is
20 like saying that all football teams can compete, but some
21 football teams will have 300-pound players and some will
22 have 120-pound players; they are not going to be very
23 competitive very long.

24 If the goal is to give governors flexibility, why do we
25 not start by giving governors parity, or at least have a

1 goal over time to give governors parity and how much
2 resources the Federal Government will provide them to
3 achieve a common objective of moving people from welfare to
4 work?

5 Ms. Paull. Well, again, the current system does not
6 have that either, so the bill was building, to some degree,
7 off of the current system.

8 Senator Graham. But it is the current system that we
9 are rejecting. The current system, frankly, had an
10 objective of saying, if a State was able to be fairly
11 generous, then the Federal Government was going to be
12 equally generous.

13 The Chairman. Can I suggest, there is going to be a
14 vote in a little while and this policy could be debated, I
15 realize, for a long, long time. I think it is important
16 that we just get through this description of the mark-up.

17 Senator Graham. I will conclude, Mr. Chairman, but I
18 think this is a fundamental foundation of sand in this
19 plan, if the purpose is to put States in a position to move
20 people from welfare to work, to build it on a financial
21 structure that had an entirely different and increasingly
22 discredited set of objectives.

23 The Chairman. I am anxious that we proceed with the
24 description of the legislation before us, but I will
25 recognize our distinguished colleague from Illinois.

1 Senator Moseley-Braun. Thank you, Mr. Chairman. I
2 would like to ask a question. The New York Times today has
3 an editorial, "Ducking the Truth About Welfare Cuts." I do
4 not know if you had a chance to look at this editorial, but
5 in it it says that there is an estimate that the old Senate
6 bill would shove an additional 1.1 million children into
7 poverty.

8 I have two questions: whether or not you have done an
9 estimate with regard to this legislation as to how many
10 millions of children would be affected, and, two, at the
11 end of the time limit--presuming the five-year but we
12 recognize it could be less--what provision, if any, is made
13 for those million children?

14 Ms. Paull. Well, the answer is, we do not have an
15 estimate like this. I do not know where this is coming
16 from, but Senator Moynihan said he received something from
17 OMB, so we will take a look at that.

18 Senator Moynihan. If I may say, we have this morning
19 a letter, in response to the editorial, I would think, that
20 said it would be somewhat less than the 1.5 million.

21 Senator Moseley-Braun. 1.5 million. This editorial
22 says 1.1 million, so maybe that is the distinction.

23 Senator Moynihan. It is about in that range.

24 Senator Moseley-Braun. All right.

25 Senator Moynihan. It is over a million, surely, for

1 starters.

2 Senator Moseley-Braun. All right. But the committee
3 did no analysis of how many millions of children would be
4 affected by this legislation?

5 Ms. Paull. We were not able to get an estimate on
6 that, no.

7 Senator Moseley-Braun. All right.

8 Senator Moynihan. Could I say to the Chairman, just
9 for the record, I was going to offer one amendment that
10 said that it is a sense of the Senate that we should not
11 put this legislation into effect without a report from OMB
12 saying it would not increase child poverty.

13 Mr. Cullinane, of the Congressional Budget Office, said
14 to us that no such designation would be possible and,
15 therefore, if my amendment were to pass, there would be an
16 extra \$51 billion short because the effect of the bill is
17 to save \$51 billion, but it could not do that without
18 increasing child poverty in the range that you have
19 discussed. That is an official letter.

20 Senator Moseley-Braun. Well, to my colleague and to
21 the staff ----

22 Senator Moynihan. For the record, Dr. Paul Cullinane,
23 Chief of the Human Resources Cost Estimates Unit.

24 Ms. Paull. I would point out that they are
25 considering the entire impact of the bill, some of which is

1 coming out from the Agriculture Committee, and I do not
2 know the interactions that are going on there either.

3 I would also point out that it has never been clear to
4 us how you take into account the increase in children in
5 poverty that would occur anyway when you try to do these
6 analyses.

7 The spending under this bill for these categories of
8 people is more than if we continued the current law program
9 if you were just focusing on the AFDC part of the program.
10 But then if you get into the food stamp part of the bill
11 that has been marked up by the Agriculture Committee, there
12 is going to be some interaction there. So I do not think
13 we ----

14 Senator Moseley-Braun. Well, clearly there are
15 interactions on a lot of levels. It seems to me that if we
16 contract the dollars and we know how it is going to impact
17 the States, and we know how it is going to impact the
18 parents, and we know how it is going to impact all of these
19 people, that we would have an analysis of how it is going
20 to impact children.

21 But let me ask you my next question, which is, assuming
22 for a moment that the time limits in the bill operate as
23 they are supposed to operate and, given the family of two
24 or three, the youngest child winds up being born six months
25 before or after the time limit, the family has been out of

1 work, or the mother has been out of work--since it is more
2 often than not women--for five years, on and off, maternity
3 leave and all the rest of it. But let us assume that child
4 is born into a family that has exceeded its time limit.
5 Does this bill even address what happens to that child?

6 Ms. Paull. Well, again, the bill allows States to
7 consider each family on a case-by-case basis. They can
8 exempt from the five-year time limit up to 20 percent of
9 their case load. Since circumstances vary among people,
10 among States, and within States, we have not defined what
11 those categories of people are.

12 We have given the States the ability to take 20 percent
13 and deal with it on a case-by-case basis, so it is not an
14 absolute five-year limit. I think that is what also makes
15 it difficult to have projections here.

16 Senator Moseley-Braun. But a State could decide not
17 to.

18 Ms. Paull. A State could decide not to; that is
19 right.

20 Senator Moseley-Braun. Yes. All right. Then my
21 final question, is whether or not there has been an
22 analysis by the committee of the impact of the legislation
23 by Census track, that is to say, on municipalities and on
24 rural communities with high poverty rates, because clearly
25 there is going to be a pushing down to the States, and the

1 different States will have a different poverty profile, if
2 you will, so it will impact some States more than it will
3 others. That is the point that I think Senator Graham has
4 been making.

5 But within the States it will impact some communities
6 in some Census tracks more than it does others. Have you
7 done an analysis on those areas within the States that will
8 be the most impacted and affected by this legislation?

9 Ms. Paull. No, we have not tried to segregate out
10 parts of States. No, we have not.

11 Senator Moseley-Braun. Would it be possible to get
12 such an analysis?

13 Ms. Paull. We can ask for one.

14 Senator Moseley-Braun. Would you?

15 Ms. Paull. Sure. Yes.

16 Senator Moseley-Braun. I would appreciate that.
17 Thank you.

18 The Chairman. It is important that we proceed at this
19 stage.

20 Ms. Paull. I am sorry. Title 2 deals with
21 Supplemental Security Income, and Dr. Vachon will speak
22 about that.

23 Senator Breaux. Mr. Chairman, I have one quick
24 question on the contingency fund, which is in the previous
25 section. It is my understanding that the bill is supposed

1 to have a \$2 billion contingency fund.

2 Ms. Paull. That is right.

3 Senator Breaux. But I understand also that the way
4 that the contingency fund works in this bill is different
5 from the way it worked in the conference bill that was
6 passed in H.R. 4, I guess, in the sense that, as I
7 understand it, in this legislation if a State has an
8 economic downturn and spends more money than they spent in
9 1994 but only goes into the contingency fund for part of
10 the year as opposed to the entire year, that the federal
11 share to that State would be substantially reduced. That
12 is different, as I understand it, from the provisions in
13 H.R. 4 where the State would get their contingency money on
14 the same federal match that they had under normal
15 circumstances.

16 So, when we talk about a \$2 billion contingency fund,
17 what CBO is actually telling us is that it is really not \$2
18 billion, under this new formula it would be closer to about
19 \$1.5 billion. Is that correct?

20 Ms. Paull. The funding that is allocable in the bill
21 is \$2 billion. There is a cap in the bill on that.

22 Senator Breaux. What does CBO project would be used?

23 Ms. Paull. They project the use at \$1.5 billion
24 during the five-year period of 1997 to 2001.

25 Senator Breaux. Does not our bill reduce the federal

1 match share if a State uses it only for part of the year,
2 and I would ask the question, why?

3 Ms. Paull. Well, I think the provision that you are
4 talking about basically says that if you were to qualify
5 because you have either met the unemployment trigger or the
6 increase in the food stamps, then you only qualify for the
7 period that you still qualify under the triggers, so if you
8 have a seasonal increase in food stamps that lasts, like,
9 three months, then you can qualify for a three-month
10 period.

11 Senator Breaux. Yes, I understand that. But
12 your ----

13 Ms. Paull. And that is what the pro rata formula is
14 to deal with, because the contingency fund is intended to
15 provide safety net funding for all States, and we also have
16 some limits on how much each State can draw down so one big
17 State does not draw everything down.

18 Senator Breaux. I understand that. If a State only
19 has a problem for three months, they only should get into
20 the contingency fund for three months.

21 Ms. Paull. For three months.

22 Senator Breaux. But why is the federal match greatly
23 reduced during that three-month period; why would it not be
24 the same as it is under normal circumstances?

25 Ms. Paull. Again, I think it is only that you can

1 draw down what you would need over a three-month allotment.
2 It is a pro rata amount.

3 Senator Breaux. Yes. But is not the federal share of
4 what they would draw during that three months reduced
5 because they are not using it for the whole year? The
6 actual percentage of the federal/State share is
7 dramatically reduced from the federal contribution. I do
8 not understand the purpose of that.

9 Ms. Paull. This program does not have a match on it.

10 Senator Breaux. But a contingency fund, the State has
11 to match it.

12 Ms. Paull. But you have 100 percent maintenance of
13 effort.

14 Senator Breaux. But a State has to match you their
15 normal share when they go into the contingency fund, do
16 they not? Sure. Well, we can get to that. My question
17 specifically is, why, if a State gets into the contingency
18 fund for only a part of the year, does the federal match,
19 which is 75/25 or 50/50 depending on the State,
20 dramatically reduced when the State gets money out of the
21 contingency fund for an emergency? I mean, that is dumping
22 a huge burden on the State at a time when they really need
23 help, which is the purpose of the contingency fund.

24 Ms. Paull. Once again, there could be some technical
25 problems, but our intent behind the drafting was to give

1 them the three-month period access.

2 Senator Breaux. I totally think they should only get
3 it for the time they need it, but they should not have the
4 formula changed while they are getting it. I think that
5 the draft does that and we need to take a look at it.

6 Ms. Paull. We would be happy to look at that.

7 Senator Breaux. All right.

8 The Chairman. Shall we proceed with Title 2?

9 Senator Moseley-Braun. Mr. Chairman? I have one tiny
10 other legitimate question to follow-up on the answer that
11 staff gave me to an earlier question.

12 The Chairman. I would ask that you keep it very
13 short, please.

14 Senator Moseley-Braun. I will, I promise.

15 Ms. Paull, we were talking about what happens with
16 these children and you talked about the 20 percent
17 exemption. I have some numbers just given to me from HHS
18 that says that even with the 20 percent exemption we are
19 talking about 2,609,000 children just with nothing left,
20 just kind of with no coverage or subsidy at all. With the
21 two-year time limit, that is 5,492,000 children. Now,
22 these are just children.

23 Now, the question I was trying to get at, which you
24 responded to by referencing the 20 percent exemption, was
25 what happens to those 2.6 million, or alternatively 5.4

1 million, at the end of the time limit?

2 Ms. Paull. Well, it is a two-part answer here. If
3 the time limit is two years set by the State, let us say,
4 or three years set by the State, it is below the five-year,
5 the State could choose, for the balance of the five-year
6 period, to provide non-cash benefits if that is what their
7 plan provided. It is really up to the State.

8 But the way this bill works, after five years lifetime,
9 federal funds would not longer be available for that family
10 unless they were a hardship family and was in the 20
11 percent hardship.

12 Senator Moseley-Braun. So, in truth, we just do not
13 know what is going to happen to them.

14 Ms. Paull. Again, we do not know what is going to
15 happen under this program. These numbers all assume that
16 there will not be reductions in the rolls, that everybody
17 will stay on and keep growing.

18 We would be happy to take a look at these numbers; we
19 have not seen them. All of that is speculative, of course,
20 when you are trying to reshape a program into a work
21 program that we have really not tried before.

22 Some of the experiments that States have been doing
23 when you put in some tough work requirements, for example,
24 in Wisconsin, there has been a large reduction in the
25 rolls.

1 Senator Moseley-Braun. Well, I thank the Chairman for
2 his consideration. I do not know if anyone else wants to
3 take a look at these numbers.

4 The Chairman. Let us, if we can, proceed with Title
5 2.

6 Dr. Vachon. Mr. Chairman, Title 2 of the bill
7 contains reforms to the Supplemental Security Income
8 program. In brief, these reforms would deny SSI benefits
9 to fugitive felons, parole violators, and other wrongdoers.
10 In addition, the bill would also tighten eligibility for
11 SSI benefits to children.

12 These reforms reflect a bipartisan consensus reached
13 during Senate consideration of H.R. 4. These reforms are
14 also consistent with administration proposals. The
15 Chairman's modification also contains several provisions
16 which respond to recommendations made by members.

17 Ms. Paull. Title 3 is the child support enforcement
18 package. It is a fairly large package.

19 Senator Chafee. Mr. Chairman, can I ask a quick
20 question of Dr. Vachon?

21 The Chairman. Yes.

22 Senator Chafee. The base that is provided for each
23 State includes the amounts that are currently being paid to
24 all those on SSI, am I correct?

25 Dr. Vachon. There is no base, Senator. This is

1 individual entitlement.

2 Senator Chafee. Yes. But the Medicaid base that you
3 accept, that you use to figure what each State is going to
4 get under this bill.

5 Dr. Vachon. That is a Medicaid question, sir. This
6 is just SSI reforms. It has to do with SSI benefits to
7 wrongdoers and to children. Medicaid will be dealt with in
8 a subsequent presentation.

9 Senator Bradley. Mr. Chairman?

10 The Chairman. Yes.

11 Senator Bradley. Could I ask Mr. Vachon, is there
12 anything in this legislation that would preclude someone
13 who is now an AFDC recipient from becoming an SSI
14 recipient?

15 Dr. Vachon. No, sir.

16 Senator Bradley. So that the phenomenon we have
17 observed in Massachusetts and Michigan, where you take an
18 AFDC recipient that is paid about 50 percent of the
19 payments paid by the Federal Government up to 75 percent,
20 would move potentially into a situation where the Federal
21 Government would pick up almost the entire cost under SSI.

22 Dr. Vachon. If an individual is disabled, this is an
23 individual entitlement provided by the Federal Government.

24 Senator Bradley. Right.

25 Dr. Vachon. The phenomenon you describe actually goes

1 back to 1972. Martha Derthick, in her book Policy and
2 Distress, describes this phenomenon as going back to the
3 earliest days of the program.

4 Senator Bradley. So that if governors want to, they
5 could essentially find ways to define AFDC ineligibility.
6 They could take people off the AFDC rolls and they could
7 shift them to the SSI rolls, of course, at the choice of
8 the individual, if the individual qualified under the
9 criteria.

10 But, as we see in Michigan, 22,000 people more are on
11 SSI and they almost mirror the number of people who came
12 off the AFDC rolls. So the suspicion is, particularly
13 since there are firms now specializing in this subject,
14 that it will reduce the AFDC roll but it will increase the
15 SSI rolls.

16 What governor would not want to lay off the 50 percent
17 State cost to the Federal Government and have the Federal
18 Government pick up 100 percent of the cost as an SSI
19 recipient? That is my concern with the legislation. I am
20 not arguing that you should change SSI; I use this just to
21 illustrate the point that once you do a block grant you
22 have unintended consequences. This could be one of the
23 unintended consequences of this bill and it will end up
24 costing taxpayers more, not less.

25 Senator Moynihan. If I could just say, Mr. Chairman,

1 I think Senator Bradley has brought something fascinating
2 to our attention. Dr. Vachon mentioned Martha Derthick's
3 book on this, which saw it coming. Some day we might want
4 to have a hearing on these consultants who come along and
5 show you how to game the system.

6 We had Mr. Brown, from the governors' office in Boston,
7 who was here last week, you will remember, and was talking
8 about this. He said it is really an issue of public
9 policy. Obviously they make the most of their opportunity,
10 but it is not clear that that opportunity should be
11 available.

12 Dr. Vachon. Senator Moynihan, the GAO has issued two
13 reports on this subject and we are taking this under very
14 careful study.

15 Senator Moynihan. Good. I just think we might pursue
16 it a bit. Thank you.

17 Ms. Paull. The next title is the child support
18 enforcement title that basically is a very lengthy package
19 of reforms to the Child Support Enforcement program that
20 have been being worked on for many years by Senator
21 Bradley. Senator Snowe, since joining the Senate, has also
22 been engaged in that effort.

23 This package is substantially the same package that we
24 had in the last bill. We have continued to work with the
25 directors to fine-tune it. This is a package that has

1 broad support and will, we hope, result in better
2 enforcement of child support, across State lines in
3 particular. I will not go into the nitty-gritty details
4 here.

5 The next page is Title 4, that deals with non-citizens.
6 Again, this is principally the package of non-citizens
7 changes that was in H.R. 4. They fall into three basic
8 categories for SSI and food stamps. The non-citizens must
9 work in the United States for at least 40 quarters to be
10 eligible, and that has an effective date that is January 1,
11 1998, I believe. That applies to all recipients, new and
12 old.

13 The second package is for a new entrants, basically,
14 all federal means-tested programs for U.S. citizens
15 entering the United States. After the date of enactment
16 you have to wait for five years to be eligible for most
17 federal means-tested programs. There are some exemptions
18 for emergency medical, and childhood immunization,
19 communicable diseases, and things like that.

20 Then the third item is something that Senator Simpson
21 has been working on for a long time, which is to get better
22 enforcement and have broader deeming of sponsors' incoming
23 resources when a non-citizen comes into the country and is
24 sponsored by somebody. This has the entire package,
25 dealing with affidavits of support as well. As I said, it

1 is very close to what was previously in the bill in H.R. 4,
2 almost identical.

3 The next title is Title 5, Reduction in Government
4 Positions. This was added in the Senate bill and is
5 intended to reduce the federal positions when there is
6 diminished federal responsibility for principally the AFDC
7 program.

8 The public housing is here, but that is not in our
9 committee's jurisdiction.

10 Title 7, although you have a nice big package here, has
11 been completely dropped out of the bill in the
12 modification, at the request of, I believe, Senators Chafee
13 and Rockefeller. We have included one item as a substitute
14 for this entire title which is to continue an enhanced
15 match for the child welfare system at 75 percent for one
16 year.

17 Title 8 is the child care. Basically, this is the
18 child care package, again, from the previous bill, with
19 increased funding of \$4 billion requested by the governors
20 for child care to be able to meet the work requirements
21 under the new program.

22 I guess I skipped over something. We can go back to
23 it.

24 The next title is Miscellaneous Provisions. They are
25 basically the same as the Senate bill except for there is

1 a reduction in the Title 20 Social Services block grant by
2 20 percent instead of 10 percent. That was the same level
3 that the committee approved last year during
4 reconciliation.

5 At this time, as part of the non-citizens title, we had
6 included the administration's Earned Income Credit
7 proposals dealing with greater enforcement on non-citizens,
8 and we have added a few more Earned Income Credit proposals
9 that should be before you in a separate package than these
10 side-by-sides that Ken Kies will go over with you right
11 now. The mark looks like this. There is a table and a
12 letter-sized mark-up document.

13 Mr. Kies. Mr. Chairman, the Earned Income Credit
14 provisions before you include four changes. The first, is
15 the compliance proposals related to the Earned Income
16 Credit provisions which would require that eligible
17 individuals include their taxpayer identification number
18 and, if married, their spouse's taxpayer identification
19 number on tax returns claiming the Earned Income Credit and
20 would provide that the math error procedure is applicable
21 in those situations where the taxpayer identification
22 number is not included.

23 The second item would expand the definition of
24 disqualified income to include passive income and capital
25 gains. It would also provide that the threshold would be

1 indexed and that the threshold would be reduced from the
2 current law level of 2,350 to 2,200 and then indexed
3 thereafter.

4 The third proposal would modify the adjusted gross
5 income, which is calculated for purposes of determining the
6 phase-out of the Earned Income Credit to include various
7 losses and to add tax-exempt interest income, non-taxable
8 distributions from IRAs, pensions, and annuities.

9 Then, finally, the fourth provision would suspend the
10 inflation adjustment for individuals without qualifying
11 children, the so-called childless worker category. Those
12 are the four items in the Earned Income Credit package.

13 Senator Breaux. Mr. Chairman?

14 The Chairman. Yes, Senator Breaux.

15 Senator Breaux. I have a question about the Earned
16 Income Tax Credit. It is my understanding, and I am going
17 to ask if I am correct or incorrect, that this Earned
18 Income Tax Credit proposal exceeds by about \$5 billion the
19 \$18.5 billion of budget resolution instructions that we had
20 to reduce EITC by in the budget resolution. Is that
21 correct or not correct?

22 Mr. Kies. No. Senator Breaux, the budget instruction
23 instructs, I believe, over seven years to achieve \$18.5
24 billion. This package would only include \$4.9 billion over
25 that period.

1 Senator Breaux. That is \$4.9 billion in addition to
2 the \$18.5 billion, is it not? You are not saying that this
3 EITC is only \$4.9 billion in reductions.

4 Mr. Kies. Yes. This package before the committee
5 would only provide for total outlay and revenue reductions
6 of \$4.9 billion for the seven-year period of 1996 through
7 2002.

8 Senator Breaux. Where is the \$18.5 billion that we
9 were supposed to cut under the budget resolution?

10 Ms. Paull. If I might comment, on the third
11 reconciliation bill, which is what I believe you are
12 referring to, the assumptions that underlie that third
13 reconciliation bill is that we would address Earned Income
14 Credit by \$18.5 billion reduction.

15 Senator Breaux. Ah! And you had that one ----

16 Ms. Paull. That was an assumption, it is not an
17 instruction to the committee. The committee can do
18 whatever it wants when it gets to that bill. It is a
19 deficit reduction instruction in terms of a dollar amount.

20 Senator Breaux. Let me see if I understand this.
21 This is asking us to cut the Earned Income Tax Credit by
22 \$4.9 billion. We have another instruction that is going to
23 come up in the third budget reconciliation that is going to
24 say, you have to cut it by \$18.5 billion.

25 Ms. Paull. That was one of the assumptions that

1 underlie this, but we are not bound by those assumptions
2 and we never have been. We were not consulted. That was
3 just how they reached their number in the Budget Committee.

4 Senator Breaux. So after the end of all of this, how
5 much are we going to reduce EITC by? I mean, we can do
6 whatever we want, but what are we bound to do?

7 Mr. Kies. Technically you are not bound to do
8 anything, I believe.

9 Ms. Paull. That is correct.

10 Senator Breaux. So under the budget resolution that
11 we passed we are not required to cut the Earned Income Tax
12 Credit by anything?

13 Ms. Paull. There is no instruction specifically on
14 the Earned Income Credit in the resolution. As I said,
15 there are always these worksheets that underlie the
16 resolution in both Houses and both Budget Committees, but
17 they are not binding on this committee.

18 Mr. Kies. For example, Senator Breaux, the net tax
19 cut over seven years in the budget resolution is \$122
20 billion, I believe, and it has been suggested that that
21 would accommodate a child credit, but it does not
22 specifically instruct the committee to do a particular
23 child credit of one type or another.

24 I think some of the Budget Committee people merely
25 looked at illustrative examples of how one might get to a

1 child credit with \$122 billion, but it is not a specific
2 instruction to do that.

3 Senator Breaux. All right. Thank you.

4 The Chairman. Go ahead, please.

5 Ms. Paull. That ends the welfare program part of the
6 walk-through. The next part would be on Medicaid. Dennis
7 Smith will bring you through that.

8 Mr. Smith. Thank you, Mr. Chairman.

9 Senator Moynihan. Mr. Smith, hurry now, because there
10 is almost nobody here.

11 Mr. Smith. Yes, sir. That was what I was going to
12 shoot for. In contrast, the Medicaid provisions of the
13 bill are substantially different from what was reported
14 last year from the committee.

15 This year the bill provides written guarantees into the
16 legislation based mostly along the lines of current law,
17 both in terms of the beneficiaries and in the services to
18 which they are guaranteed.

19 The recommendations of the National Governors'
20 Association were incorporated into the legislation in terms
21 of setting the guaranteed population to whom the States
22 would guarantee the benefits.

23 The bill itself was expanded somewhat beyond the
24 National Governors' Association to provide guarantees to
25 additional people. The Chairman's modification has been

1 expanded even further, and now includes guarantees for the
2 older children based on the phased-in coverage in current
3 law and also transitional Medicaid for families that are
4 moving from welfare into work. So the modification in the
5 Chairman's mark would guarantee additional populations are
6 covered.

7 In terms of services, the bill reflects basically
8 current law. Guaranteed benefits are what are now mandated
9 in current law. The States may offer the optional services
10 that are included in current law as well.

11 Another significant change to the legislation is in
12 terms of how persons with disabilities are covered under
13 the Act. The States have an option, including the option
14 to continue current law provisions in terms of the persons
15 with disabilities who meet the income standard tests of the
16 Supplemental Security income.

17 The States may choose to provide their own definition
18 of persons with disabilities in terms of, they are covered,
19 but if they do that then they are required to provide 90
20 percent of their expenditures for this population.

21 The States also, if they choose their own definition of
22 disabled, would not be able to access the supplemental
23 umbrella for that, whereas, if they are the guaranteed
24 population, under current law they would be able to get
25 into the umbrella for the disabled persons as they choose.

1 The bill has been modified to provide for the current
2 law definitions on the EPSDT program. The bill has also
3 been modified to continue the current law, which is not in
4 statute but in regulation, in regards to amount, duration
5 and scope of services.

6 The States, much along the lines of what was reported
7 out of the committee last year, does provide the States
8 with the flexibility to determine their delivery systems in
9 regard to providing the flexibility for the States to move
10 into managed care. It repeals the Boren Amendment, as has
11 been suggested by a number of members. It also does not
12 provide for a federal right of action for providers.

13 Substantial changes in the bill have been made
14 regarding nursing homes. The bill continues the current
15 law protections in nursing homes, including enforcement
16 provisions, and also the Secretary's authority to enforce
17 nursing home standards has continued.

18 The particular place in the bill that is very similar
19 to what was reported out of the committee is how the funds
20 are allotted among the States. We have refined the base
21 allotment slightly. We believe we make it more sensitive
22 to States with a higher percentage of elderly population,
23 in particular.

24 In regards to Senator Graham's concerns on the AFDC
25 side of how fund are moved, the Medicaid legislation does

1 differ from current law in that we move to a system in
2 which the federal dollars do follow the number of persons
3 in poverty to a greater extent. So the funding formula is
4 very similar to what was reported out of committee and what
5 was adopted last year, I should say, but there are some
6 refinements for the older population.

7 The bill also provides for a supplemental umbrella,
8 which has been estimated to cost \$26 billion. There are
9 also special grants in the bill provided for the Native
10 Americans and illegal aliens totalling \$4 billion, with a
11 base allotment of \$797 billion over the next six years.

12 The differences in the bill, nursing homes has been
13 retained. The current law provisions have been retained.
14 The bill is very similar in other respects to the
15 legislation that was reported last year in terms of the
16 relationship with the States and the Federal Government in
17 terms of submitting a State plan that is enforceable by the
18 Secretary. The legislation also includes the change in the
19 Federal Matching Assistance Percentage.

20 I wanted to mention that that FMAP change dates back to
21 1981, when the General Accounting Office suggested at that
22 time the FMAP was creating some inequities and should be
23 looked at. So the change in that legislation through time
24 has been modeled on the GAO's work.

25 That would conclude my summary, if I can answer any

1 questions.

2 The Chairman. Any questions?

3 Mr. Smith. Thank you very much, Mr. Chairman.

4 Senator Moynihan. I have an amendment.

5 Senator Breaux. I would like to ask a question, Mr.
6 Chairman.

7 The Chairman. Senator Breaux. We are going to have
8 a vote, I gather, in the very near future.

9 Senator Breaux. I would like to ask the staff, you
10 used the word guarantee over, and over, and over, and over
11 again, that we have a guaranteed program. I am concerned
12 if we are making some fundamental changes that mean it is
13 not a guaranteed program.

14 Is it not correct that a person who is Medicaid-
15 eligible today, that if this bill were to pass as it is
16 today and they have the same problems or the same
17 eligibility that they had under the old program, that under
18 the day's program they could lose that guarantee of
19 eligibility by the State changing the definition of
20 disability or by changing the definition of what is
21 welfare, thereby knocking them off of eligibility for
22 Medicaid, or, third, they just simply run out of money?

23 Is it not correct that that person who is eligible for
24 Medicaid today under those three circumstances can lose
25 their eligibility under this proposal?

1 Mr. Smith. For persons with disability, the State
2 would have the option to define who is disabled, but they
3 would be required to provide services to them.

4 Senator Breaux. All right. They can change the
5 definition of disability from what it is today, make it
6 much more strenuous, and thereby knock that person off of
7 Medicaid, if they wanted to do it, right?

8 Mr. Smith. If they do that, but the individual meets
9 other income and resources tests, they would still be
10 eligible.

11 Senator Breaux. No, no. Let us answer the question.
12 Can not the State, under this proposal, change the
13 definition of disability that today a person is eligible
14 for Medicaid under and thereby knock them off of
15 eligibility, yes or no?

16 Mr. Smith. The States would be required to spend 90
17 percent of their expenditures for those individuals as who
18 they ----

19 Senator Breaux. That is not an answer. I am sorry,
20 but that is not an answer.

21 Mr. Smith. I apologize, Senator. If the definition
22 of disability is changed in such a way that a person who is
23 now eligible because of that definition, they may lose
24 their eligibility. We choose the definition of disability
25 in the SSI portion of the bill as well.

1 Senator Breaux. We are not talking about that. I am
2 talking about Medicaid. So the answer, I guess, is yes, on
3 disability.

4 Mr. Smith. There are persons who could lose
5 eligibility for Medicaid.

6 Senator Breaux. All right. Second, suppose the State
7 runs out of money. A person who meets all of the
8 eligibility standards, does the State have to pick up that
9 person's Medicaid assistance under this proposal?

10 Mr. Smith. In terms of the guaranteed funding, the
11 State does guarantee that they would be provided the
12 services.

13 Senator Breaux. So is this not an unfunded mandated
14 if, in fact, we are telling the State they are going to get
15 X amount of money, and that their case load, because of
16 eligibility, is X plus 10 percent, that that extra money
17 would have to be spent by the State?

18 Mr. Smith. The States would have to guarantee the
19 benefits. Under current law, the guaranteed benefits for
20 a guaranteed population is less than half of the total
21 expenditures in the State, so we do believe there is a
22 great deal of flexibility to be able to provide the
23 resources to fund to guaranteed populations.

24 Senator Breaux. I think it is very clear that what
25 you just responded to, though, that the State can have an

1 increase in their Medicaid-eligible persons, and they are
2 going to have to cover it without any additional funding
3 from the Federal Government.

4 Mr. Smith. There will be, for increase in enrollment,
5 the umbrella fund to which they can gain access into.

6 Senator Breaux. Well, we will talk about that. But
7 when the umbrella fund runs out, because it is a capped
8 amount.

9 Mr. Smith. The umbrella is not capped, Senator.

10 Senator Breaux. How long does it last?

11 Mr. Smith. It lasts through the life of the program.
12 The umbrella is not a capped amount. The umbrella is
13 funded by increases in population.

14 Senator Breaux. But is it not available only for the
15 first year?

16 Mr. Smith. No, sir.

17 Senator Breaux. How is it available for the second,
18 third, and fourth years then?

19 Mr. Smith. There is a relationship in the base
20 allotment that the States are receiving funding from, which
21 is what is distributed to the funding formula, and on top
22 of that is the umbrella. They move together over time, so
23 in the first year, if a State experiences growth above what
24 was anticipated, they would get into the umbrella for as
25 many children ---- for example, if there were 5,000 more

1 children that came on than was anticipated, the umbrella
2 would be accessed for all 5,000 of those children.

3 Senator Breaux. For how long? How many years?

4 Mr. Smith. All right. The amount would be based on
5 the per beneficiary expenditure for that type of population
6 so they get that.

7 Senator Breaux. So how long would it be available?

8 Mr. Smith. In the next year, when the next year comes
9 up, the State would have an increase in their base
10 allotment which would cover at least some of the people who
11 came on in the previous year. If the State experienced
12 another growth, they would get into the umbrella for that
13 additional growth population.

14 Senator Breaux. Can you tell me what Director June
15 O'Neal, who is head of the Congressional Budget Office,
16 means when she writes about this umbrella fund that, "The
17 supplemental payment is not cumulative because excess
18 growth in one year would be incorporated into the threshold
19 against which the following year's growth would be
20 measured?"

21 Mr. Smith. What she means, is that it is not a
22 cumulative effect upon the umbrella. But what she also
23 says in the CBO letter is that the legislation provides
24 that the base allotment is increased by the number of
25 people in program need as well.

1 Senator Breaux. Is there a guarantee in this proposal
2 that the dollar follows the person for how long the person
3 is eligible under the standards, or not?

4 Mr. Smith. The dollar following the people is an
5 issue that has been addressed in the bill. It does not
6 follow as quickly because, under the current system ----

7 Senator Breaux. How slowly does it follow them?

8 Mr. Smith. Well, we move every year towards a closer
9 per federal amount per person in poverty. Every year we
10 have movement.

11 Senator Breaux. I do not want to belabor the point;
12 we will do it when we offer the amendment. But the point
13 is, what I hear us saying in this legislation is that the
14 guarantee is going to have to be picked up by the State if,
15 indeed, the umbrella does not provide sufficient funds for
16 a person who is otherwise eligible.

17 The third question, is on a third way that I think that
18 I am concerned about a person who is Medicaid-eligible
19 today, but would not be eligible under this bill if States
20 took actions to change the welfare standards of eligibility
21 which this other bill allows them to do. Could they not
22 lose their Medicaid eligibility by a change in the
23 standards for welfare eligibility?

24 Mr. Smith. The States have the choice of changing
25 their welfare eligibility. But, if they are eligible for

1 AFDC under the new program, or whatever the State chooses
2 to call their new program, then they are eligible for
3 Medicaid as well, which is the relationship in current law.

4 Senator Moynihan. Would the Senator yield for just a
5 second? But if the five-year time limit had taken effect,
6 then the persons would not be eligible for AFDC and,
7 accordingly, not for Medicaid.

8 Mr. Smith. Senator, you are correct, but with respect
9 that the AFDC eligibility standards are often under the 100
10 percent of poverty level, whereas this legislation is a
11 guarantee for the children, pregnant women, et cetera,
12 based on the federal poverty level.

13 Senator Moynihan. Right. Both things.

14 Senator Breaux. I will argue it again, but the
15 questions, I think, and the responses, really indicate at
16 least what the Democratic governors said, that a guarantee
17 without adequate funding is not a guarantee. It is a
18 meaningless guarantee. That is my concern.

19 Mr. Smith. Senator, under the legislation, the
20 funding for the program continues to increase about an
21 average of six percent a year, so by the time we get out
22 into the funding for the program, it does continue to
23 increase.

24 Senator Breaux. Thank you.

25 The Chairman. I think that completes the description

1 of the legislation. There is supposed to be a vote very
2 soon, is there not? We will recess until 2:00.

3 Senator Moynihan. And we thank our most industrious
4 and excellent staff.

5 [Whereupon, at 1:00 p.m., the meeting was recessed.]

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1 AFTER RECESS

2 [2:30 p.m.]

3 The Chairman. The committee will please come to
4 order. We are now open to amendment, and I will first call
5 on Senator Baucus.

6 Senator Moynihan. Mr. Chairman, would you allow me
7 just to say that I will have no amendments?

8 The Chairman. I appreciate that.

9 Senator Moynihan. I simply would want to say that we
10 have this morning, from the Executive Office of the
11 President, a statement that this welfare legislation would
12 move something like 1.5 million children below the poverty
13 line and it would increase the poverty gap for those
14 already below the poverty line.

15 It was this information that made almost all Democrats
16 vote against the conference report on H.R. 4, and this is
17 simply repeating the vote on the conference report. Those
18 who voted against it--and the President then vetoed the
19 bill--would be perfectly consistent in voting against this
20 particular measure at this time.

21 Senator Conrad?

22 Senator Conrad. I would ask the Ranking Member, if I
23 could, there are those of us who agree with him that the
24 welfare reform bill that is coupled with the Medicaid
25 reform bill is not in a shape where we could support it on

1 final passage, although it has certainly improved from what
2 started down the process.

3 But this Senator has stated publicly on numerous
4 occasions that it strikes me that the Medicaid proposal is,
5 in effect, a poison pill that prevents us from getting to
6 a welfare reform proposal that we might support and that
7 the Medicaid proposal requires, really, serious reworking.

8 A concern I would have, is what happens if we vote for
9 the Senator from Montana's proposal; do we have an
10 opportunity to amend the welfare reform proposal, or are we
11 in effect suggesting that we are supporting the welfare
12 reform proposal as is?

13 Senator Moynihan. I would have to say to you that the
14 reality of the committee's position at this point is that
15 you would, in fact, be voting for the proposal before you.
16 It will not be changed, and will go the President's desk in
17 this form and you will put the President in that position,
18 which I do not think you, Senator, would wish to do.

19 We will be back here in January. Anyway, I thank the
20 Chairman for allowing me.

21 The Chairman. Senator Baucus.

22 Senator Baucus. Thank you, Mr. Chairman. Mr.
23 Chairman, I have an amendment which would strike the
24 Medicaid title of S. 1795. It is the basic point that I
25 made earlier today, and it is the point that Senator Conrad

1 has made.

2 Essentially, at this point, June 26, 1996, there is not
3 a lot of time left in this Congress to address some
4 problems that the American people perceive should be
5 corrected. Welfare is one. Most Americans, by far, would
6 like some solution to the "welfare" problem. I think that
7 if we are going to solve it we should pass this amendment
8 so that we can proceed on welfare reform.

9 Now, the basic point is we should not let perfection be
10 the enemy of the good. I respectfully understand that
11 there are maybe one or two on this committee that think
12 this is nowhere close to being good, let alone perfect. I
13 understand that.

14 Nevertheless, I think it is the majority view on this
15 committee and the Congress that the welfare provisions in
16 this bill are a good start. If this amendment passes, then
17 the committee would have the opportunity to make further
18 improvements on the welfare provisions of this bill.

19 We have time yet today to do that. I have some
20 suggestions, and I know other members of the committee have
21 their own suggestions of how to improve upon the welfare
22 provisions in this bill.

23 We are a democracy. It is majority rule. The
24 committee votes. Generally in this committee, the
25 majority, as is the case generally in all legislative

1 bodies, controls. That is the democratic process, it is
2 the democratic will. I think this country does want
3 significant welfare reform.

4 On the other hand, if my amendment does not pass, it is
5 common knowledge that this bill could be improved upon
6 slightly depending upon one's point of view of improvement,
7 but that the core provisions of the Medicaid part of this
8 bill are likely not to be amendment sufficiently, either in
9 this committee or in the floor, to allow the President to
10 sign the whole package. That is, it is highly likely that
11 the President will veto this bill.

12 So I am making a very strong plea to this committee
13 that we pass this amendment, that the welfare provisions in
14 this bill are better, from most people's perspective, than
15 were the provisions in an earlier welfare bill that this
16 committee passed out on virtually party lines. I was the
17 only Democrat who voted in favor of that welfare package.
18 This is a lot better than that one was. It has a lot of
19 provisions which are a lot better.

20 I have got to tell you, and I think most members in
21 this committee know this, the American people are pretty
22 fed up with the Congress. The American people find
23 Congress dysfunctional. Totally dysfunctional. The
24 American people are beginning to be not nonpartisan, but
25 antipartisan.

1 The American people are beginning to reach the point
2 where they do not like Democrats, they do not like
3 Republicans, they do not like the lobbyists, they do not
4 like the special interest groups. They think the
5 combination of the whole lot causes dysfunctional
6 nothingness. Nothing gets done for the general interest
7 and the public interest, and a lot gets done for the
8 individual, private, special interest.

9 We have an opportunity now, with the passage of this
10 amendment, to do something positive that this country
11 wants: welfare reform. Again, it is not going to be
12 perfect, but it is going to be along the lines of what the
13 American public wants. Again, if we do not pass this
14 amendment, the chances are very high that we will not pass
15 either Medicaid reform or welfare reform, therefore,
16 nothing.

17 That will confirm the public's view of the Congress,
18 that is, it is dysfunctional, unable to do anything in the
19 public interest, and we all know that in the remaining four
20 months before the November election there is probably not
21 much this Congress is going to do. Maybe a few
22 appropriations bills. Who knows, really, whether a health
23 bill is going to pass? Some thought that it might not,
24 hung up over MSAs.

25 Who knows whether, really, in fact, minimum wage, along

1 with the small business provisions, are going to be enacted
2 into law? Sure, it passed this committee. Sure, there is
3 supposed to be an agreement. But there is still a
4 conference process to go through, and something could
5 happen. There are many here who are dedicated to the
6 defeat of minimum wage. It may not be enacted.

7 So I urge us to kind of vary our individual beliefs to
8 the point of preventing passage of my amendment, because if
9 my amendment passes it is far, far more likely that we will
10 achieve welfare reform than will be the case if my
11 amendment does not pass. So, I urge us to vote for it. We
12 can then improve upon the welfare provisions in this bill
13 and make it a little bit better than it now is.

14 Senator Conrad. Would the Senator yield for a
15 question?

16 Senator Baucus. I yield.

17 Senator Conrad. Mr. Chairman, might I inquire of the
18 Senator?

19 The Chairman. Senator Conrad, please.

20 Senator Conrad. There are some of us who strongly
21 favor welfare reform but are concerned about the specific
22 welfare reform package that is here, that is, we share the
23 Senator from New York's concern with respect to the package
24 that is here.

25 If we vote to separate the two, do you see that as an

1 endorsement of the welfare package that is present in this
2 bill?

3 Senator Baucus. No, I do not. I see a vote for my
4 amendment as endorsement of trying to pass a welfare reform
5 bill this year, and, with the passage of my amendment, then
6 we will have an opportunity to improve upon the current
7 bill.

8 Senators would then be in a position to vote for or
9 against the welfare reform bill that comes out of this
10 committee. But, no, I do not see the endorsement for this
11 amendment as endorsement for this particular welfare bill,
12 because I would like to improve it myself.

13 I would like to see it a lot better than it now is. My
14 hope is that, if this amendment passes, that the Senators
15 will offer amendments to make this better from the people's
16 point of view so that we do address a lot of the concerns
17 raised by Senators on this committee.

18 The Chairman. Senator Rockefeller.

19 Senator Rockefeller. Thank you, Mr. Chairman. I am
20 trying, a little bit, to answer Senator Conrad's dilemma,
21 which he is struggling with just as I am. I guess I would
22 come out with a little different answer than Senator Baucus
23 does, because I think the reality in this committee is that
24 there is no give on the things which trouble both you and
25 I in the present welfare reform bill. Yes, there will be

1 the chance to make amendments, et cetera, but they will not
2 prevail.

3 In other words, I think the welfare reform bill, as it
4 now stands, will not change because I think it is part of
5 the mind set of the Majority part of this committee. From
6 my point of view, I made the comment this morning what I
7 thought the Majority party's strategy was, and I made it
8 very strongly.

9 But that is in no way to indicate my own views about
10 the welfare reform bill before us, much less the Medicaid
11 bill before us. So, I will probably have to oppose the
12 Senator from Montana's amendment, even though I understand
13 the honor with which he offers it and feels it.

14 The Chairman. Senator Breaux, and then Senator
15 Bradley.

16 Senator Breaux. Thank you, Mr. Chairman. I said
17 earlier on before the mark-up began that I thought the only
18 chance we had of passing welfare reform is not to link it
19 with something we had no agreement on. Maybe the fact that
20 so few people are here, everybody knows what is going to
21 happen.

22 I mean, this is the most important vote that we are
23 going to take on these two issues in this committee in this
24 Congress, because it is absolutely clear that if we have a
25 welfare bill that people agree to and a Medicaid bill that

1 people do not agree to and the President does not agree to,
2 the package is going to be vetoed. It is not going to be
3 overridden.

4 So if we do not de-link something that we have the
5 essence of an agreement with and with the administration
6 from something that we do not, we might as well just leave
7 because we could spend the whole afternoon trying to amend
8 things and perfect things, and we know what is going to
9 happen in the end. All of this is going to be for naught.

10 The only chance we have to get a welfare bill passed
11 and signed into law is to have it de-linked from something
12 on which there is no agreement, i.e., Medicaid. So this,
13 clearly, is the most important amendment. If Senator
14 Baucus' amendment was passed, the welfare bill is going to
15 be pending before this committee.

16 I have four amendments to it; members of the Republican
17 side have amendments they want to offer to improve it.
18 Perhaps those amendments will pass. Maybe, as Senator
19 Rockefeller said, they will not pass. But then we will
20 have an opportunity to vote no on the welfare bill if it is
21 not perfected in a way that makes sense.

22 But it is absolutely clear that if we do not de-link
23 the two there is no chance that either is going to become
24 law. Therefore, two years of work on welfare reform is
25 going to be wasted. I think that is something that this

1 committee should not allow to happen. We should have
2 welfare pending before this committee, trying to improve
3 it. We all have amendments. If we can improve it, let us
4 send it to the President and see it signed.

5 The Chairman. Senator Bradley.

6 Senator Bradley. Mr. Chairman, I could see voting for
7 this amendment if one believed that the underlying welfare
8 reform bill was a good bill or had a chance of being
9 improved. I do not think that the underlying welfare
10 reform bill is redeemable.

11 There is a second circumstance in which I think that
12 you might want to vote for this amendment, and that is that
13 if you split welfare, that you had a belief that we would
14 then do something that is particularly good on Medicaid.
15 But the Medicaid proposal, as a block grant, seems to be
16 the locked-in perspective of most of the committee.

17 So, if you believe that neither the Medicaid proposal
18 embodied in the bill is particularly good, nor the welfare
19 reform proposal, there is not much incentive to vote to
20 split one off and keep the other. So, I will not support
21 this amendment.

22 Senator Moynihan. Mr. Chairman?

23 The Chairman. Senator Moynihan.

24 Senator Moynihan. May I just say to my colleagues on
25 this side, every Democratic member of this committee, with

1 the exception of Senator Baucus, who is consistent, voted
2 no to the conference report on H.R. 4 after it was shown
3 that it would put 1.5 million into poverty and make the
4 poverty of many other children already in poverty worse.

5 It is not hard to be on the poverty line if you are on
6 AFDC. When that information came out, it changed the
7 President's view. He had indicated he would be for that
8 legislation, but he changed his view when he found what the
9 facts were. He vetoed it. We voted against it, and he
10 vetoed it.

11 Now, we are talking about essentially the same bill.
12 This morning, from the Executive Office and the President,
13 they say it would be perhaps somewhat fewer than 1.5
14 million children, but it is substantially the same, plus
15 provisions about legal immigrants and things of that kind.

16 I think it would be a dreadful thing to do to the
17 President. I think it would be a self-evident fact that
18 there would be no improvements in this legislation. It
19 will simply mean that we will put the President in an awful
20 situation which we have already before voted not to do.

21 The Chairman. Senator Graham.

22 Senator Graham. Mr. Chairman, I think the analysis
23 that Senator Bradley has outlined is exactly the proper
24 question. That is, would you vote for this underlying
25 welfare bill as a separate measure? I am a strong

1 supporter of programs that will facilitate a movement from
2 dependency to independence, and I am pleased that within my
3 State there have been two very effective programs. I wish
4 some of the learning that we have gained in the last few
5 years have been reflected in this legislation. It is as if
6 we are sleep-walking and have learned nothing.

7 Senator Moynihan. The Family Support Act measures.

8 Senator Graham. I asked a question earlier which I
9 think is quite central to this issue, and that is, are we
10 moving towards the States being in greater parity in their
11 capacity to be able to achieve the goals of moving people
12 to welfare to work? The States that were selected as a
13 high and low performer were Alaska and Mississippi.

14 Well, are we moving Alaska and Mississippi closer
15 together or further apart? According to the General
16 Accounting Office review of this legislation, today the
17 difference between the payment for the average poor
18 individual in Alaska and Mississippi is \$1,192. We pay
19 Alaska \$1,192 more per year per indigent person than
20 federal funds that go to Mississippi.

21 What will be the result in the year 2001? In the year
22 2001 the GAO predicts that we will be sending to Alaska
23 \$1,798 more than we send to Mississippi. So under this
24 proposal we broaden the disparities, and yet we are asking
25 both of these States to be judged by the same standard,

1 their ability to move people from welfare to work.
2 Patently unfair, unrealistic, and clearly we know what the
3 result is going to be, that the poor States are going to be
4 much less able to accomplish the objectives of this
5 legislation.

6 So I will oppose the amendment, because I could not
7 support an underlying proposition that was as fundamentally
8 unfair as the one that is before us.

9 The Chairman. Any further comment?

10 [No response.]

11 The Chairman. Let me just make one or two
12 observations. To have true reform in this area, it seems
13 to me that it is essential to link welfare and Medicaid.
14 The governors, for example, have written me that they
15 believe strongly that welfare cannot be reformed without
16 addressing critical concerns regarding Medicaid.

17 They said, "We are concerned that legislation might
18 move forward without provision to fix an overly-complicated
19 Medicaid system that is failing the very families it is
20 supposed to help."

21 Let me point out that not only the governors have
22 expressed their real concern about this linkage, but so has
23 the President in the past. The President stated in address
24 to the governors more than three years ago, "Many people
25 stay on welfare not because of the checks, they do it

1 solely because they do not want to put their children at
2 risk of losing health care."

3 The governors have good reason to be concerned about
4 this linkage; Medicare has grown by leaps and bounds. But,
5 most importantly, it has taken something like, on average,
6 20 percent of the State budgets. By doing so it has
7 impacted on other vital, important State programs such as
8 education, such as law enforcement.

9 I correct myself. I am talking obviously about
10 Medicaid. But Medicaid, by eating such a large percentage
11 of the State budget, is impacting on these other programs,
12 meaning that there is less to spend on those programs.

13 So I think it is important that we keep this linkage.
14 I would point out that the linkage between welfare and
15 Medicaid was really created more than 30 years ago when the
16 Medicaid program was created, so S. 1795 did not create
17 this linkage.

18 I would urge the defeat of the Baucus amendment,
19 because I think it hopelessly cripples the reform that is
20 necessary to provide a lifting hand to those in need, and
21 I would urge my colleagues to vote against the Baucus
22 amendment.

23 Senator Breaux. Would the Chairman yield for a
24 question?

25 The Chairman. Yes.

1 Senator Breaux. I appreciate the argument about the
2 linkage, but did not the Republican leadership introduce
3 H.R. 4, a welfare reform bill, without Medicaid last year?

4 The Chairman. That is true, there was such a
5 proposal. But since then, I have become Chairman ----

6 [Laughter]

7 The Chairman. [Continued]. And I find in my infinite
8 wisdom I have decided they should be combined.

9 Senator Breaux. Just thought I would ask.

10 Senator Conrad. Mr. Chairman?

11 The Chairman. We are trying to keep the time down on
12 these amendments.

13 Senator Conrad. I understand.

14 The Chairman. Senator Conrad.

15 Senator Conrad. I appreciate the Chairman, and I
16 appreciate very much the Ranking Member. I find this a
17 very difficult vote in the sense that I have said publicly
18 that I believe that the two should not be linked.

19 On the other hand, I do not want my vote misconstrued
20 in any way because I agree with the Senator from New York
21 with respect to the underlying proposal. I just wanted
22 that to be on the record.

23 The Chairman. It is so noted. The Clerk will call
24 the roll.

25 The Clerk. Mr. Chafee?

1 Senator Chafee. No.
2 The Clerk. Mr. Grassley?
3 The Chairman. No, by proxy.
4 The Clerk. Mr. Hatch?
5 The Chairman. No, by proxy.
6 The Clerk. Mr. Simpson?
7 Senator Simpson. No.
8 The Clerk. Mr. Pressler?
9 Senator Pressler. No.
10 The Clerk. Mr. D'Amato?
11 The Chairman. No, by proxy.
12 The Clerk. Mr. Murkowski?
13 The Chairman. No, by proxy.
14 The Clerk. Mr. Nickles?
15 The Chairman. No, by proxy.
16 The Clerk. Mr. Gramm, of Texas?
17 The Chairman. No, by proxy.
18 The Clerk. Mr. Lott?
19 The Chairman. No, by proxy.
20 The Clerk. Mr. Moynihan?
21 Senator Moynihan. No.
22 The Clerk. Mr. Baucus?
23 Senator Baucus. Aye.
24 The Clerk. Mr. Bradley?
25 Senator Bradley. No.

1 The Clerk. Mr. Pryor?

2 Senator Pryor. No.

3 The Clerk. Mr. Rockefeller?

4 Senator Rockefeller. No.

5 The Clerk. Mr. Breaux?

6 Senator Breaux. Aye.

7 The Clerk. Mr. Conrad?

8 Senator Conrad. Aye.

9 The Clerk. Mr. Graham, of Florida?

10 Senator Graham. No.

11 The Clerk. Ms. Moseley-Braun?

12 Senator Moynihan. No, by proxy.

13 The Clerk. Mr. Chairman?

14 The Chairman. No.

15 The Clerk. The votes are three yeas, 17 nays.

16 The Chairman. The amendment is not agreed to.

17 Senator Chafee. Mr. Chairman?

18 The Chairman. Senator Chafee.

19 Senator Chafee. I have an amendment. The system, I

20 believe, is we have a total of five minutes from

21 presentation and discussion to the vote, or how does this

22 work?

23 The Chairman. Five minutes on each side.

24 Senator Chafee. Five minutes on each side. Well, all

25 right, Mr. Chairman. First, I want to comment on something

1 that I will not be presenting. I want to just comment
2 briefly, then I will move to my amendment. First, the bill
3 immediately bans SSI and food stamps for legal immigrants,
4 that is, in the measure that is before us. It is not a
5 prospective thing.

6 It applies to legal immigrants who are now in the
7 country and are receiving food stamps and SSI. They have
8 one year, as I understand it, a grace period if you would,
9 then they are knocked off both food stamps and SSI.

10 I was going to present an amendment, Mr. Chairman, that
11 would have at least protected those who were currently
12 receiving SSI and food stamps. In other words, if they are
13 now receiving it they would be grandfathered, if you would,
14 and it would apply prospectively.

15 This would be a costly item, and I would have to have
16 an offset. Since the tax measure is not part of this, I do
17 not have the offset to make up the money for what my
18 proposal would have done. Therefore, under the rules, we
19 have to have an offset and I do not have it, so I will not
20 be presenting that amendment.

21 Now, Mr. Chairman, the current law, the law we are
22 operating under now--now what you have presented here, but
23 the current law--says that States must provide Medicaid
24 coverage for those disabled on SSI that meet the income
25 limits, and to get on SSI they have to meet the income

1 limits, whether they are under 65 or over 65.

2 Now, first, you have got to remember who we are talking
3 about. We are talking about the severely disabled with
4 incomes that are between 70 and 90 percent of the federal
5 poverty level. This bill uses the new definition of SSI
6 which we worked out when we did the line item veto. In
7 other words, it is a much tighter definition of SSI.

8 Now, what this legislation that is before us does, is
9 it requires the States to give Medicaid to those disabled
10 on SSI who are over 65, but it does not require the
11 coverage of those disabled on SSI who are under 65. This
12 is a very curious provision, and we have got to remember
13 that the funds on which we are dealing with all of this
14 include the present payments to those under 65. In other
15 words, that is how we arrive at our base, yet, those are
16 included. Under the provision that we have before us,
17 those under 65 are knocked off, or at least are left at the
18 option of the State.

19 So, Mr. Chairman, what I propose--and my co-sponsors
20 are Senators Conrad, Rockefeller, and Moseley-Braun--is
21 that we have a federal definition of disabled on SSI and
22 those should be covered.

23 I might say, Mr. Chairman, that last year when we were
24 dealing with this measure I presented this on the floor.
25 We did not have that coverage for this group, the disabled

1 under 65. I presented an amendment on the floor and it
2 won, 69 to 30. So, that is the same amendment that I would
3 present here.

4 Senator Conrad. Mr. Chairman?

5 The Chairman. Senator Conrad.

6 Senator Conrad. Mr. Chairman, I want to speak in
7 favor of the Chafee amendment. The disabled are the most
8 vulnerable of the vulnerable. They are five times more
9 likely than the general population to be in fair or poor
10 health. In many cases, they are incapable of working or
11 earning enough to afford private health insurance.

12 By definition, they have pre-existing conditions that
13 preclude affordable private health insurance. Without
14 Medicaid, they would have no access to health insurance or
15 health care services. This is the reality.

16 Yet this bill would repeal this safety net, leaving the
17 disabled to the complete mercy of States that will be
18 increasingly squeezed by budgetary pressures under the
19 tight block grants imposed by the bill. The bill allows
20 States to define disabled, giving them the option of not
21 covering those disabled who cost the most and need coverage
22 the most.

23 It allows States to slash their spending on Medicaid
24 services for the disabled and it strips the disabled of
25 their ability to enforce their eligibility or right to

1 benefits in federal courts.

2 This amendment by Senator Chafee restores the guarantee
3 by requiring States to use the federal definition of
4 disability. As Senator Chafee has indicated, it passed
5 overwhelmingly on the floor of the United States Senate.
6 I hope my colleagues would support the amendment.

7 The Chairman. Let me say that I oppose this
8 amendment. I oppose this amendment because basically I
9 think it is based on a fatal flaw of lack of confidence in
10 our State officials. What we seem to be saying is that the
11 governors and States cannot be trusted, when the facts show
12 the opposite to be true.

13 Under current law, as I brought out in some of the
14 hearings we held this last week, it is clear that the
15 States are going far beyond the requirements of law in
16 providing coverage under Medicaid to individuals who are
17 optionally selected, and I would also point out they are
18 providing optional services both to those who are
19 mandatorily covered, as well as those who are optionally.

20 So the record shows that, under current conditions, the
21 States would have the choice of backing off many of these
22 benefits, but have not chosen to do so. To the contrary,
23 they have provided extended coverage.

24 Now, what we are trying to provide in the legislation
25 is flexibility, flexibility to the States as to how to

1 cover the disabled. They can continue to use the same
2 definition that they now are, and they would be entitled to
3 assistance from the umbrella if doing so, or they can
4 define the meaning and definition of disabled. If they do
5 that, then they are required to set aside 90 percent of
6 their spending in future years.

7 This is something that has been strongly supported by
8 both Republican and Democratic governors. It is done so,
9 as I said, to provide flexibility so that better service
10 can be provided to those in need. For that reason, I urge
11 the defeat of the amendment.

12 Senator Rockefeller. Mr. Chairman?

13 The Chairman. Senator Rockefeller.

14 Senator Rockefeller. I had no intention of speaking
15 at all, but you cannot trust me on that subject.

16 The Chairman. Would you put that in writing?

17 Senator Rockefeller. This amendment should not even
18 have to be voted on, it should be accepted and should be in
19 the Chairman's mark. Senator Chafee and I presented this
20 amendment last year. It passed in the Senate Finance
21 Committee. Things then began to happen; presences loomed,
22 all of a sudden it got clobbered in the Senate Finance
23 Committee, if my memory serves me correctly. There was a
24 complete switch because forces were at work.

25 It went to the floor, where it passed. The Senate

1 Finance Committee has passed this amendment, the floor has
2 passed this amendment, and it ought to be passed.

3 The Chairman. Senator Nickles?

4 Senator Nickles. Mr. Chairman, I concur with your
5 thoughts that this amendment should be rejected, in spite
6 of the eloquent remarks made by my colleagues from West
7 Virginia and Rhode Island. The SSI program, surprisingly,
8 still has a lot of abuse. We have tightened that somewhat
9 in previous legislation.

10 But we have talked to governors, and they have said, if
11 you are going to mandate coverage for disabled--and
12 disabled sometimes is not real easy to define, and in many
13 cases does have some cases of abuse--I happen to think the
14 governors are just as interested in covering disabled in
15 their States as we are.

16 And, to assume that because we do not mandate the
17 entitlement that an individual that deserves to receive
18 assistance would not receive assistance, I think is totally
19 false. Governors and people in States want to take care of
20 those people who are less fortunate probably as much, even
21 more than we do, because they are closer to them.

22 But to put in a mandate of federal eligibility a
23 federal determination if they receive SSI then they have to
24 receive continued Medicaid, it will continue the practice
25 of a lot of people receiving benefits that, frankly, should

1 not be.

2 If we are going to be giving the States some
3 flexibility, I think we should give them some flexibility
4 as far as determining disabled. So, I would concur with
5 the Chairman and hope that the amendment would be rejected.

6 The Chairman. The time is up.

7 Senator Chafee. Could I make just one quick point,
8 Mr. Chairman? I have five minutes to make the
9 presentation, is that right?

10 The Chairman. A total of five.

11 Senator Chafee. Total of five. Well, Mr. Chairman,
12 I have trouble following what you are saying, because you
13 say we do not want a mandate on the States in this area,
14 but, indeed, you have mandated that those over 65 have to
15 be covered. Yet, those over 65 are the very ones who have
16 Medicare.

17 The thing ought to be reversed. At least you ought to
18 take care of those under 65 who are not eligible for
19 Medicare. They are not required to get Medicaid, and they
20 are, as has been pointed out, the poorest people in our
21 society. They are not at 100 percent of poverty, they are
22 at 70 percent of poverty. We are going to hear all
23 afternoon about the governors. I think I know something
24 about governors. The idea is, they can be completely be
25 trusted, they are wonderful people. Well, there are a lot

1 of wonderful governors, and there have been in the past.

2 But, under that theory, we just ship the money out to
3 them and say, take it; you are great fellows, you are all
4 Boy Scouts, and you will spend it just the right way. Why
5 have we got a whole series of minimum provisions in laws
6 and we have had them for many, many years, whether it is
7 nursing home care, or whatever they are, because there have
8 been terrible derelictions on the part of governors and the
9 States in the past, and that is why we do it. It is
10 federal money that is involved here. Not 100 percent, but
11 usually 50 percent.

12 The Chairman. All time is up. The Clerk will call
13 the roll.

14 The Clerk. Mr. Chafee?

15 Senator Chafee. Aye.

16 The Clerk. Mr. Grassley?

17 Senator Grassley. No.

18 The Clerk. Mr. Hatch?

19 Senator Hatch. No.

20 The Clerk. Mr. Simpson?

21 Senator Simpson. No.

22 The Clerk. Mr. Pressler?

23 The Chairman. No, by proxy.

24 The Clerk. Mr. D'Amato?

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Murkowski?
2 The Chairman. No, by proxy.
3 The Clerk. Mr. Nickles?
4 Senator Nickles. No.
5 The Clerk. Mr. Gramm, of Texas?
6 The Chairman. No, by proxy.
7 The Clerk. Mr. Lott?
8 The Chairman. No, by proxy.
9 The Clerk. Mr. Moynihan?
10 Senator Moynihan. Aye.
11 The Clerk. Mr. Baucus?
12 Senator Moynihan. Aye, by proxy.
13 The Clerk. Mr. Bradley?
14 Senator Bradley. Aye.
15 The Clerk. Mr. Pryor?
16 Senator Pryor. Aye.
17 The Clerk. Mr. Rockefeller?
18 Senator Rockefeller. Aye.
19 The Clerk. Mr. Breaux?
20 Senator Breaux. Aye.
21 The Clerk. Mr. Conrad?
22 Senator Conrad. Aye.
23 The Clerk. Mr. Graham, of Florida?
24 Senator Graham. Aye.
25 The Clerk. Ms. Moseley-Braun?

1 Senator Moynihan. Aye, by proxy.

2 The Clerk. Mr. Chairman?

3 The Chairman. No.

4 The Clerk. The votes are 10 yeas, 10 nays.

5 The Chairman. The amendment is not agreed to.

6 The floor is open to further amendment.

7 Senator Hatch. Mr. Chairman?

8 The Chairman. Senator Hatch.

9 Senator Hatch. Mr. Chairman, my principal concern all
10 along has been the potential impact of the Medicaid reform.

11 Senator Breaux. Mr. Chairman, excuse me. Do we not
12 have this order we are supposed to go in, or not?

13 Senator Hatch. Oh, I am sorry. I would be happy to
14 defer.

15 Senator Breaux. We are going to alternate. We have
16 a published order.

17 Senator Hatch. I will defer.

18 The Chairman. Does anyone have an amendment on this
19 side?

20 Senator Pryor. I am ready to go, if we are going to
21 go in order, Mr. Chairman.

22 The Chairman. Yes, Senator Pryor.

23 Senator Pryor. Mr. Chairman, this will hopefully be
24 very quick. I will just take a moment. This amendment
25 will guarantee that individuals who now are eligible for

1 Medicaid nursing home coverage under current law--under
2 current law--would not become ineligible under this
3 proposal, S. 1795.

4 Under current law, Mr. Chairman and colleagues, the
5 States today guarantee federal funds when the States
6 themselves decide to offers services such as nursing home
7 care. Under the block grant concept, there are no such
8 guarantees in this bill. I think that we need to guarantee
9 this. We need to have every State basically playing under
10 the same rules.

11 Once again, I am like Senator Chafee. I know many of
12 the governors, and they are fine people. I have been one.
13 But I think some uniformity in the law is necessary and I
14 strongly support this concept of guaranteeing that we not
15 cause people to become ineligible under the new law.

16 We are talking about a \$72 billion cutback in Medicaid
17 dollars, and when those severe cutbacks actually take
18 effect, who knows what is going to happen out in the 50
19 States. So this is an amendment I hope will receive the
20 support of the committee, and I ask that it be considered.

21 The Chairman. Anything further? Senator Conrad.

22 Senator Conrad. Mr. Chairman, just briefly, I want to
23 strongly support the amendment from the Senator from
24 Arkansas. Medicaid is the biggest single provider of long-
25 term care for the elderly. Unfortunately, this bill

1 completely severs that vital safety net for our Nation's
2 seniors.

3 The Roth bill would not guarantee that all eligible
4 seniors could get nursing home services. It would allow
5 States to redefine nursing home services or reduce the
6 amount of the benefits.

7 In my judgment, the bill should not put the elderly at
8 risk of losing nursing facility services. I think that is
9 just a mistake. We hear over and over there is a guarantee
10 here, but there is a guarantee until the federal money runs
11 out.

12 I have already indicated that New York has their money
13 cut in half by the year 2005. These governors may be great
14 fellows, but they are not magicians. When the money runs
15 out, nursing home care for the elderly is going to run out.
16 I hope we can support the amendment.

17 Senator Moynihan. Mr. Chairman?

18 The Chairman. Senator Moynihan.

19 Senator Moynihan. Mr. Chairman, I certainly rise in
20 support of the amendment. I would like to make the point
21 that we should not cut elderly out of Medicaid. But we
22 have voted in this body. We have a welfare amendment
23 which, in five years' time, would throw 3.5 million
24 children out of Medicaid, throw them onto the streets.
25 That is what we are doing here. But I am very much for Mr.

1 Pryor's amendment.

2 Senator Pryor. Thank you, Mr. Chairman.

3 Senator Simpson. Mr. Chairman?

4 The Chairman. Senator Simpson.

5 Senator Simpson. Mr. Chairman, let the record also
6 show that in four years there will be no Medicare. Let us
7 try to keep our eyes on that. If we do not do something to
8 correct Medicare, according to the trustees of the Medicare
9 system, it will be bankrupt in the year 2000. Originally
10 it was 2002, it has moved down to 2001, now it is 2000.

11 I know the answer, I have heard it all: we will correct
12 that. There is a way to correct it, it is new payroll
13 taxes. I have heard that one, too. Or cut benefits. I
14 have heard that one, too, but nobody is doing anything.
15 So, as we talk about these things, I hope we will keep that
16 in mind.

17 Senator Rockefeller. Mr. Chairman, I would simply
18 point out to my friend from Wyoming that his speech was
19 compelling, but we are talking about Medicaid, not
20 Medicare.

21 Senator Simpson. I know, but we are talking about old
22 people and children, always, and the poor.

23 Senator Moynihan. Senator Simpson is talking about
24 Medicare. It does not matter what the subject is.

25 [Laughter]

1 Senator Simpson. Talking about the poor, and the
2 children, and the veterans. That is what we have to talk
3 about to keep the old juices up in here.

4 The Chairman. Senator Nickles.

5 Senator Nickles. Mr. Chairman, I might ask staff,
6 maybe they could help me. What in the bill changes
7 eligibility as far as Medicaid nursing home eligibility;
8 are the States able to determine eligibility under this
9 proposal?

10 Mr. Smith. The eligibility for services are
11 guaranteed to the elderly population, as far as being
12 eligible for services. The services themselves, though, as
13 I understand this amendment, this would guarantee basically
14 all costs under the current program and would be carried
15 forward so the States would not have the ability to
16 redesign the program.

17 Senator Nickles. Even if the program is breaking the
18 back of the States, and maybe is inefficient, even if the
19 program is providing services either it could not afford or
20 was not doing it in the most effective, efficient manner?

21 Mr. Smith. If the amendment is intended to read all
22 nursing home costs for all individuals who would otherwise
23 be eligible under current law.

24 Senator Nickles. Mr. Chairman, this looks to be very
25 inflexible. It may be a good political amendment, but it

1 is not a good way to run a program. Had I had time to make
2 a statement, Medicaid, which a lot of people say, let's
3 don't touch, and maybe that is the political thing to do,
4 but if we are not going to touch and curb the growth of
5 some entitlements ---- Medicaid, the last five years, has
6 grown at 28, 29, 13, eight, and nine percent. You cannot
7 compound that those kind of rates of growth and ever have
8 any fiscal control. It is breaking the back of the States,
9 as well as the Federal Government.

10 So, we need to have some better management. To pass an
11 amendment that says, all people that were previously
12 eligible will be forever eligible, I think, does not make
13 a lot of sense.

14 Senator Bradley. Mr. Chairman?

15 The Chairman. I think all time is up.

16 Senator Bradley. One minute?

17 The Chairman. All right.

18 Senator Bradley. What Senator Nickles is essentially
19 saying is that the elderly nursing home patient who is out
20 there on a dialysis machine or on a ventilator, if the
21 governor wants to, can cut them off. I do not think that
22 is what we should do.

23 Senator Nickles. That is not what staff just said.

24 They said that seniors ----

25 Senator Bradley. They could define the services that

1 would be eligible. That is what the staff said.

2 Senator Pryor. The States could.

3 Senator Bradley. The States could define the services
4 that could be eligible. A ventilator or a dialysis machine
5 is a service.

6 Senator Nickles. Dennis, do you want to clarify that?

7 Mr. Smith. Yes. Under the Chairman's bill, in the
8 first place, the guaranteed coverage is still there for
9 this population. As I read the amendment, this deals with
10 services, the services that would be defined in the State
11 plan that would be submitted to the Secretary, that the
12 Secretary goes through the approval process of the State
13 plan that is in there as under the Chairman's modification.

14 It also includes a provision in current law regarding
15 the amount, duration and scope of services. But I think
16 the reading of this amendment is that everything that they
17 receive as of the program now would be carried forward
18 under the new program, which would not give the ability to
19 redesign what the services are.

20 Senator Conrad. Mr. Chairman, could I inquire of the
21 staff. I mean, they have said to me, and I think it has to
22 be clarified here, in Section 1501 or Section 1502(b)(2) on
23 page 797 it states that, "The guarantee of States required
24 under Subsection (a) and (b) of Section 1501 are subject to
25 the limitation on payment to States provided under Section

1 1511."

2 Does that mean that this so-called guarantee that you
3 are talking about is only in place so long as the federal
4 funding is available? What is the plain meaning of that?

5 Mr. Smith. Senator Conrad, the guarantee, the
6 umbrella, is a vehicle for additional funding based on
7 growth in your enrollment. So if the States had a higher
8 growth rate in the number of individuals, whether it is
9 children, or elderly, or whatever category that is
10 available for whatever number of people come into the
11 program that was not anticipated, the States would receive
12 from the umbrella an amount per beneficiary.

13 So, if there are additional elderly people that come on
14 the rolls, for every new elderly person that comes on, they
15 would receive the per beneficiary amount from the umbrella
16 fund.

17 Senator Conrad. For one year.

18 Mr. Smith. And, as the umbrella works together with
19 the base allotment for the States, there is growth built
20 into the base allotment as well.

21 Senator Conrad. Well, let me ask. Then if the
22 guarantee ---- might I just finish this, Mr. Chairman, and
23 ask, if there is a guarantee here ----

24 The Chairman. Thirty seconds.

25 Senator Conrad. [Continued]. And the federal money

1 runs out, then do you have an unfunded mandate on the
2 States?

3 Mr. Smith. The guarantee for the ----

4 Senator Conrad. If the federal money runs out, you
5 are saying the guarantee continues. Then, by definition,
6 you have an unfunded mandate on the States.

7 Mr. Smith. Senator, the umbrella itself is not
8 capped.

9 The Chairman. The time has expired. I did say to
10 Senator Chafee he could have 30 seconds.

11 Senator Chafee. All right, Mr. Chairman. What
12 worries me about this amendment, and I am sympathetic to it
13 but I do not think I will vote for it, because what it does
14 is sets aside a block for a certain group that the States
15 cannot make savings in and, thus, with the block grant, the
16 amount of money that is available for the other populations
17 where the suffering is going to be.

18 In other words, if you get a set block of money and you
19 reserve a portion of it, under current law, for the
20 elderly, then you cannot make savings there. You have got
21 a rising population, perhaps, with the young children on
22 Medicaid. That is my problem with it.

23 The Chairman. All time has expired. The Clerk will
24 call the roll.

25 The Clerk. Mr. Chafee?

1 Senator Chafee. No.
2 The Clerk. Mr. Grassley?
3 Senator Grassley. No.
4 The Clerk. Mr. Hatch?
5 Senator Hatch. No.
6 The Clerk. Mr. Simpson?
7 Senator Simpson. No.
8 The Clerk. Mr. Pressler?
9 The Chairman. No, by proxy.
10 The Clerk. Mr. D'Amato?
11 The Chairman. No, by proxy.
12 The Clerk. Mr. Murkowski?
13 The Chairman. No, by proxy.
14 The Clerk. Mr. Nickles?
15 Senator Nickles. No.
16 The Clerk. Mr. Gramm, of Texas?
17 The Chairman. No, by proxy.
18 The Clerk. Mr. Lott?
19 The Chairman. No, by proxy.
20 The Clerk. Mr. Moynihan?
21 Senator Moynihan. Aye.
22 The Clerk. Mr. Baucus?
23 Senator Moynihan. Aye, by proxy.
24 The Clerk. Mr. Bradley?
25 Senator Bradley. Aye.

1 The Clerk. Mr. Pryor?

2 Senator Pryor. Aye.

3 The Clerk. Mr. Rockefeller?

4 Senator Rockefeller. Aye.

5 The Clerk. Mr. Breaux?

6 Senator Breaux. Aye.

7 The Clerk. Mr. Conrad?

8 Senator Conrad. Aye.

9 The Clerk. Mr. Graham, of Florida?

10 Senator Graham. Aye.

11 The Clerk. Ms. Moseley-Braun?

12 Senator Moynihan. Aye, by proxy.

13 The Clerk. Mr. Chairman?

14 The Chairman. No.

15 The Clerk. The votes are 9 yeas, 11 nays.

16 The Chairman. The amendment is not agreed to.

17 Senator Hatch, it is your turn.

18 Senator Hatch. Thank you, Mr. Chairman.

19 I would call up the Native American Medicaid funding
20 amendment, if they could pass it out. My principal concern
21 all along has been the potential impact of Medicaid reform
22 on the provision of health care to Native Americans.

23 I know Senators Pressler, Murkowski, and Baucus, who
24 are co-sponsors, are also concerned about the impact of a
25 reformed Medicaid program on the provision of Medicaid

1 services to Native Americans.

2 We have worked together on this issue since last year
3 and I think we have made considerable progress. I would
4 remind my colleagues that Native Americans, as a whole,
5 suffer the highest rates of diabetes, tuberculosis, and
6 fetal alcohol syndrome of any segment of the population.

7 I also note that the 1995 health expenditures for
8 Indian Health Service recipients per capita is \$1,153.
9 This is compared to the overall U.S. national per capita
10 average of \$2,912.

11 Moreover, it is important to keep in mind that the
12 Federal Government has historically provided health care to
13 Native Americans through the Indian Health Service, and
14 this arrangement is based on existing legal treaties the
15 Federal Government has signed with Indian tribes over the
16 past 100-plus years.

17 The underlying policy of the legislation before the
18 committee seeks to preserve and enhance the federal
19 commitment to Native Americans in the context of a reformed
20 Medicaid program. The problem is that the funding level
21 specified in the bill, at least in my opinion, are
22 inadequate to meet the demand. The amendment will adjust
23 the Native American Medicaid allocation to meet the needs
24 of these people.

25 Senators Pressler, Murkowski, Baucus, and I seek to

1 protect the Indian Medicaid allocation because in many
2 Indian Health Service facilities across our country those
3 Medicaid dollars can represent up to a third of the total
4 revenues the clinic may receive.

5 Without this commitment, many of these clinics located
6 in some of the most remote parts of the country will have
7 to close. For Native Americans who live in these areas,
8 there simply is no other option for health care; they
9 either have the IHS facility or they have nothing. As far
10 as I am concerned, that is not the kind of an option I want
11 for the people of Utah, or, for that matter, any other
12 resident in the country.

13 The legislation preserves and enhances Medicaid
14 reimbursement for IHS clinics and related facilities. This
15 is what the governors recommended in their bipartisan
16 agreement in February.

17 In order to adequately fund Indian Medicaid
18 reimbursement at the federal level, then \$2.45 billion will
19 be needed. The bill proposes \$1.85 billion. Unless we
20 fund this program at a realistic level, then we can expect
21 serious disruptions, both in the provision of health care
22 to poor Indians, as well as the ability of Indian Health
23 Services to remain viable in our country.

24 Accordingly, my amendment would raise the Indian
25 allocation for Medicaid reimbursement for IHS facilities

1 and related programs by providing an additional
2 appropriation of \$551 million. This amendment would raise
3 the total Indian allocation to \$2.45 billion.

4 Now, I would add that this is the minimum level of
5 funding needed. Anything below this amount will cause
6 serious disruption and harm in the provision of health care
7 to Native Americans overall.

8 Now, the offset I propose is to take the funds from the
9 illegal alien allocation. However, I understand there is
10 some concern about that, so I would be more than happy to
11 work with the Chairman and others, should this amendment
12 pass, to find the appropriate offset.

13 To my friends from the States which might use this
14 fund, let me say that I share your concerns. As my good
15 friend from South Carolina, Senator Pressler, stated,
16 Native Americans were the first residents of this Nation
17 and our first obligation should be to them.

18 I want to work with the Chairman of the committee, as
19 well as the Budget Committee in an effort to find a better
20 source, but for now the alien allocation is the only choice
21 we have. I hope my colleagues will join me in supporting
22 this amendment, which I consider to be very important.

23 Senator Baucus. I just want to thank Senator Hatch
24 for his leadership on this issue and I want to voice my
25 strong support for this amendment. This amendment is about

1 fairness and is an important affirmation of the historic
2 and unique trust relationship between the Federal
3 Government and Indian Tribal Governments.

4 By increasing the amount of money available in the
5 separate allocation to fund Medicaid reimbursements in
6 Indian Health Service facilities, we are taking a step
7 toward assuring access to necessary health services for
8 Montana's tribes and the Native American population. I
9 urge my colleagues to join Senators Hatch, Pressler,
10 Murkowski, and I in approving this important amendment.

11 Senator Rockefeller. Mr. Chairman?

12 The Chairman. Yes. Senator Rockefeller?

13 Senator Rockefeller. This colleague will support
14 Senator Hatch. I think what Senator Hatch has done is to
15 show precisely the problem that was raised by Senator
16 Chafee when he said he would not vote for the previous
17 amendment as proposed by Senator Pryor.

18 If you are going to have a block grant and the money is
19 simply going to stop at a certain point, assuming the
20 governors choose to use all of that money on poor people,
21 et cetera, vulnerable people, then I guess logically we
22 have to say, well, we cannot really support anybody, can
23 we? I mean, we cannot do that, because if you do that that
24 means you might close somebody else out.

25 I am going to fight to protect everybody that should be

1 protected, who deserves to be protected. I think that the
2 amendment you raise brings up a population that ought to be
3 protected, and you are putting the amendment forth and it
4 has my support.

5 Senator Hatch. Well, thank you.

6 Senator Graham. Mr. Chairman?

7 The Chairman. I would ask that you keep it short,
8 because we are running out of time.

9 Senator Graham. I will. Mr. Chairman, I cannot speak
10 to the basis of increasing the Indian Health Services
11 account by the amount suggested, but I will accept my
12 colleague's determination as to the appropriateness of
13 this. But I am very concerned about the source from which
14 this money is coming. The Federal Government has laws on
15 the books which require health care facilities to provide
16 services to whoever shows up at the front door,
17 particularly emergency rooms.

18 Second, the Federal Government writes all the laws
19 relative to immigration and enforces those laws. So what
20 happens when the Federal Government, by its failure to
21 enforce, allows hundreds of thousands of illegal aliens
22 into the country, heavily concentrated in 40 counties in
23 the United States? 75 percent of the illegal aliens in the
24 United States are in 40 of the 3,000 counties. They are
25 tremendous burdens, particularly on the public hospitals

1 and other health care providers.

2 I heard our former colleague, Senator Dole, just last
3 week on national television on the News Hour, speaking from
4 a plant in California, bemoaning the fact that the Federal
5 Government had allowed all of these illegal aliens to come
6 into California and then had turned its back on California
7 in terms of the cost, whether it was incarceration of
8 illegal aliens, health care for sick aliens, or the
9 education of the children of illegal aliens. If we are
10 going to adopt this approach, then I think we ought to
11 repeal the federal mandates that health care facilities
12 provide these services.

13 But it is patently unfair for the Federal Government to
14 set all the immigration rules, fail to enforce the rules,
15 then require the States and communities to provide health
16 care services and then turn away from the enormous burden
17 that that is imposing on a handful of our communities.

18 The Chairman. Senator Bradley?

19 Senator Bradley. Mr. Chairman, I would just like a
20 little clarification. The amendment that was passed around
21 says it is paid for with a decrease in funding from the
22 supplemental pool amount for certain health care services.
23 Which health care services?

24 Senator Hatch. These would be, specifically, all
25 Indian health care services.

1 Senator Bradley. No, no. No, no. How do you pay for
2 it? It says that it is paid for by a reduction of certain
3 health care services for certain aliens. Which certain
4 health care services, and my next question maybe you can
5 answer too, which certain aliens?

6 Senator Hatch. Well, what we provide for here, we
7 felt that those services would be provided through the
8 illegal alien health care system. But, as I have said,
9 there is some angst about that and I am willing to work
10 with the Chairman and everybody else to find the
11 appropriate offset. It does not have to be there. That is
12 just what we are using for the purposes of this amendment.
13 Personally, I think the Senator from Florida makes a pretty
14 good case, and you have raised an important question.

15 So I have some angst about it myself, but we have to
16 have an offset for the purposes of the amendment and that
17 is what we have used today. But we will work on it and we
18 will solve that problem one way or the other. I know the
19 Chairman, if it passes, will work with us on it and we will
20 certainly cooperate in every way to help him.

21 Senator Bradley. Mr. Chairman, if I could. I think
22 the underlying point you make in terms of the need of
23 Indian health care services is right on target, and I think
24 that clearly there is a need. I think there are a lot of
25 other needs, too, but this is clearly a need.

1 Unfortunately, if I am called to choose here between
2 these, you know, I have to vote my State like the Senator
3 from Florida would.

4 Senator Hatch. Sure.

5 Senator Bradley. If we can find another offset, this
6 could very well be something that is ----

7 Senator Moynihan. Should we not undertake to do that
8 in the spirit that Senator Hatch has proposed?

9 Senator Hatch. I am willing to work on that offset.
10 The illegal alien health fund is about \$3.5 billion.

11 Senator Moynihan. There is money around.

12 Senator Hatch. But, frankly, we will find some other
13 offset.

14 Senator Moynihan. Might I suggest a voice vote in
15 that regard?

16 The Chairman. Those in favor, please signify by
17 saying aye.

18 [A chorus of ayes.]

19 The Chairman. Those opposed, nay.

20 [No response.]

21 The Chairman. The ayes have it. The amendment is
22 agreed to.

23 Senator Rockefeller. Mr. Chairman?

24 The Chairman. Senator Rockefeller.

25 Senator Rockefeller. I believe I have the next one,

1 according to our list.

2 The Chairman. You are next.

3 Senator Rockefeller. Yes. This has to do with
4 elderly individuals who suffer from Alzheimer's. On a
5 similar bill in 1990, and I will admit I am reaching into
6 the past, Senator Grassley, Senator Graham, and Senator
7 Pressler of this committee all supported this amendment.

8 Under current law, people with Alzheimer's have an
9 entitlement to medical assistance with a guaranteed benefit
10 package. Now, there is, no matter what folks might say, no
11 guarantee of any defined set of nursing home benefits under
12 this bill. No defined set.

13 I recognize and applaud the Chairman for making
14 adjustments in the so-called amount, duration and scope
15 question on benefits to be covered. But the lack of a
16 standard definition of disability means that States could
17 simply exclude people with Alzheimer's disease from their
18 disability category.

19 Now, Alzheimer's is one of the most horrible diseases
20 the world has ever invented, and it is a fact that about
21 half of the almost two million seniors in nursing homes
22 today have a diagnosis of Alzheimer's disease.

23 I honestly cannot see, in my attempt to return to
24 current law, that entitlement, just as Senator Hatch has
25 done so for the Native American population, to say to

1 Alzheimer's patients, no, you are to be left to the whim of
2 governors and States, I think is absolutely unconscionable.
3 I would hope that I would receive the support of my
4 colleagues.

5 Senator Moynihan. I am sure you will.

6 The Chairman. Any further comment?

7 [No response.]

8 The Chairman. Let me clarify that, under current law,
9 individuals do not have a guarantee to nursing home
10 services based solely on the fact that they suffer from
11 Alzheimer's disease, or that they are veterans, or
12 whatever. They still must qualify for Medicaid before they
13 receive nursing home services.

14 Senator Rockefeller. And that is encompassed in my
15 amendment.

16 The Chairman. Yes. So I regretfully must oppose this
17 amendment. Under S. 1795, individuals who are guaranteed
18 eligibility for Medicaid are guaranteed medical assistance
19 to a guaranteed benefit package, including nursing home
20 services. The amount, duration and scope of the guaranteed
21 benefit package set forth in each State plan must meet
22 current regulations on the amount, duration and scope of
23 benefits.

24 Senator Rockefeller. Mr. Chairman, that is correct.
25 But that is not the question of the standard definition of

1 disability. With a standard definition of disability, if
2 the State or the governor decides not to include
3 Alzheimer's, that can happen and they are, therefore, no
4 longer eligible, even under your scope and duration.

5 Senator Nickles. Is that correct, Dennis?

6 Mr. Smith. It is correct that if the State chooses to
7 use their own definition of disability. I think the issue,
8 though, that we are looking at in the amendment itself is
9 whether it is enforceable in federal court.

10 The issue on how these benefits are guaranteed ----

11 Senator Rockefeller. Might I just interrupt to say
12 that you have answered the question by saying that I was
13 correct, and to go on ---- I am not sure what committee
14 staff function is, but to go on and to try and find some
15 other argument which would help defeat this amendment, I am
16 not sure, is up to the staff as much as it is a matter of
17 concern for the Senators.

18 I do not mean to be impolite, but you really did move
19 right onto another area on which I think you were hoping to
20 turn Senators away from this amendment. I apologize for
21 being that frank, but I have to be.

22 The Chairman. Senator Grassley?

23 Senator Grassley. Yes, Mr. Chairman. Since my
24 signature on a letter six years ago was referenced, I want
25 to clarify two things. Number one, that was in regard to

1 more money for research. I have always been a supporter of
2 more money for research for Alzheimer's and I will continue
3 to be.

4 The second point is, I think we are in a whole
5 different context in regard to welfare and Medicaid reform
6 for consideration for very special programs, and I will not
7 support the amendment, even though it was suggested that I
8 might because of my signature on that letter. But it is an
9 entirely different context.

10 The Chairman. All time on the amendment is up. The
11 Clerk will call the roll.

12 The Clerk. Mr. Chafee?

13 Senator Chafee. No.

14 The Clerk. Mr. Grassley?

15 Senator Grassley. No.

16 The Clerk. Mr. Hatch?

17 Senator Hatch. No.

18 The Clerk. Mr. Simpson?

19 Senator Simpson. No.

20 The Clerk. Mr. Pressler?

21 The Chairman. No, by proxy.

22 The Clerk. Mr. D'Amato?

23 The Chairman. No, by proxy.

24 The Clerk. Mr. Murkowski?

25 The Chairman. No, by proxy.

1 The Clerk. Mr. Nickles?
2 Senator Nickles. No.
3 The Clerk. Mr. Gramm, of Texas?
4 The Chairman. No, by proxy.
5 The Clerk. Mr. Lott?
6 The Chairman. No, by proxy.
7 The Clerk. Mr. Moynihan?
8 Senator Moynihan. Aye.
9 The Clerk. Mr. Baucus?
10 Senator Moynihan. Aye, by proxy.
11 The Clerk. Mr. Bradley?
12 Senator Moynihan. Aye, by proxy.
13 The Clerk. Mr. Pryor?
14 Senator Moynihan. Aye, by proxy.
15 The Clerk. Mr. Rockefeller?
16 Senator Rockefeller. Aye.
17 The Clerk. Mr. Breaux?
18 Senator Breaux. Aye.
19 The Clerk. Mr. Conrad?
20 Senator Conrad. Aye.
21 The Clerk. Mr. Graham, of Florida?
22 Senator Graham. Aye.
23 The Clerk. Ms. Moseley-Braun?
24 Senator Moynihan. Aye, by proxy.
25 The Clerk. Mr. Chairman?

1 The Chairman. No.

2 The Clerk. The votes are 9 yeas, 11 nays.

3 The Chairman. The amendment is not agreed to.

4 Senator Moynihan. Mr. Chairman, could I just
5 interject a little thought?

6 The Chairman. Sure.

7 Senator Moynihan. I have a predecessor I revere. He
8 was a great Republican leader in New York in the late 19th
9 century, Roscoe Conklin, but he was no friend of civil
10 service legislation. He once said that, "When Dr. Johnson
11 declared patriotism to be the last refuge of a scoundrel he
12 underestimated the potential of reform."

13 The Chairman. Senator Chafee.

14 Senator Chafee. Mr. Chairman, the current law of the
15 country, as interpreted by the courts, is as follows, that
16 the States must provide Medicaid coverage for an abortion
17 in the event of the three things we are all so familiar
18 with, rape, incest, or to preserve the life of the mother.
19 In other words, they must provide Medicaid coverage in
20 these three instances.

21 What this bill does is change that and leave it
22 optional, up to the States. Mr. Chairman, I just think
23 that is a big mistake. What are you going to do if you
24 have a situation where, say, a 13-year-old is pregnant by
25 the father as a result of incest, or a woman who has been

1 raped by somebody who is HIV-positive, for example?

2 This provision does not require that Medicaid be
3 extended for an abortion in those instances. I think it is
4 an unfortunate step that has been taken here and,
5 therefore, Mr. Chairman, my motion is to stick with the
6 current law.

7 The Chairman. Any further discussion? Senator
8 Nickles.

9 Senator Nickles. Mr. Chairman, I would hope that we
10 would reject this amendment. Senator Chafee mentioned that
11 a court had made this decision. Well, 30 States--several
12 States represented around this room--have some restrictions
13 on abortion spending dealing with other than just
14 protecting the life of the mother. Some of those
15 restrictions, I might mention, are in the State
16 constitutions.

17 So the Clinton Administration had a regulation that
18 said that States must spend money for abortion spending to
19 include not only to save the life of the mother, but also
20 in the case of rape or incest, in spite of what is in the
21 State law or in spite of what is in the State
22 constitutions.

23 Senator Chafee said, well, the court upheld that. The
24 court did uphold that. So you have a bureaucrat in the
25 Department of HHS and you have one court that said, yes,

1 they must fund that. But what about the States that have
2 some restrictions?

3 The language that we have in this bill says that the
4 States can fund for abortions if the State desires to do so
5 in cases of protecting the life of the mother, or in cases
6 of rape or incest. They have that option. We should not
7 mandate that. We should not tell the States they should.

8 The whole purpose of this bill is to give the States
9 greater latitude and leeway in how they would spend their
10 money. To come in and say, we are going to mandate by law
11 that you must do it in these cases--and incidentally we do
12 not define rape. We do not define these things, whether it
13 is forcible or not. We do not want to get into that,
14 frankly--I think would be a serious mistake. We do not
15 need to do that.

16 I am looking at a letter. You could say I am trying to
17 take President Clinton's position. I read a letter that he
18 had. This is a quote from Bill Clinton. He said, "I am
19 opposed to abortion and the government funding of abortion.
20 We should not spend State funds on abortions because so
21 many people believe abortion is wrong."

22 Then he says he does support the concept proposed in
23 the Arkansas constitutional amendment, and so on. I will,
24 reluctantly, admit that this was written in 1986 and signed
25 by the governor of the State of Arkansas.

1 But the point being, a lot of States have very strong
2 opinions on this. The language that is in the Chairman's
3 mark just basically says, let the States make that
4 decision, as they should, instead of having the Federal
5 Government mandate it in every case, as would happen under
6 the Chafee amendment. So, I would urge opposition to the
7 Chafee amendment.

8 Senator Chafee. Mr. Chairman?

9 The Chairman. Senator Chafee.

10 Senator Chafee. I just want to straighten out a
11 suggestion that at least I gained from the comments of
12 Senator Nickles, namely that a court has found that the
13 coverage is mandatory.

14 At least five federal appellate courts and 13 federal
15 and State courts have rejected outright the challenges by
16 States that they did not want to comply with this. So,
17 this is pretty firmly established.

18 I want to say, Mr. Chairman, what we are talking about
19 is not some casual operation that takes place with a casual
20 encounter, if you want to put it that way. This is only in
21 very egregious circumstances, rape, incest, or the life of
22 the mother.

23 I do not think we want to be in a situation, when we
24 are saying the life of the mother is involved, that the
25 States can just choose not to provide abortion if that is

1 their choice.

2 I think, sitting here, I want to see that woman's life
3 saved. These are the three circumstances that we have
4 dealt with time, and time, and time again under the so-
5 called Hyde amendment, and I do strongly hope that my
6 colleagues will support this amendment.

7 Senator Breaux. Mr. Chairman?

8 The Chairman. Senator Breaux.

9 Senator Breaux. I would just ask the author a
10 question. Is the amendment intended or not intended to
11 include health of the mother?

12 Senator Chafee. Well, we just deal with where the
13 life of the mother is endangered, not the general health.

14 Senator Breaux. Because general health, in some
15 cases, has a very broad definition. There is
16 psychological.

17 Senator Chafee. I know. We do not have that broad
18 definition.

19 Senator Breaux. All right.

20 Senator Hatch. Mr. Chairman?

21 The Chairman. Senator Hatch.

22 Senator Hatch. Mr. Chairman, as I read your bill, you
23 basically provide that it is an optional service. It says,
24 "Abortion only if necessary to save the life of the mother,
25 or if the pregnancy is as a result of an act of rape or

1 incest." So if I understand Senator Chafee's language, he
2 would strike that so that it becomes mandatory.

3 Senator Chafee. We stick with the current law.
4 Right.

5 Senator Hatch. I see.

6 The Chairman. Senator Nickles?

7 Senator Nickles. Mr. Chairman, I said 29 States have
8 State laws that deal with funding abortion only to save the
9 life of the mother. So States such as Montana, Louisiana,
10 Oklahoma, Rhode Island, Texas, Utah, Nebraska ---- Senator
11 Exon offered this same amendment years ago on the floor of
12 the Senate, and it passed.

13 It was basically saying we should not be telling the
14 States they have to fund in cases of rape or incest. We
15 should not be trying to micromanage to that extent. I
16 think he was correct. The expansion of that was done by
17 this administration. It was upheld by a court, but that
18 was not a constitutional decision, that was a decision that
19 was an interpretation of Hyde, which deals with federal
20 funding.

21 Well, States should have the option to have some
22 restrictions, including some of these restrictions are even
23 in the State constitutions. It is really, I think, a
24 serious imposition on them.

25 The reason why these court cases have gone on is

1 because several States feel very strongly that this is an
2 imposition that they have opposed, and so that is the
3 reason why they contested it in court.

4 So, I would urge our colleagues to vote no on the
5 Chafee amendment.

6 Senator Chafee. Mr. Chairman, just two more comments.

7 The Chairman. Time has run out, so 30 seconds.

8 Senator Chafee. I would just like to point out that
9 in October of 1993 Congress revised the Hyde amendment to
10 restore Medicaid coverage for abortion in cases of rape,
11 incest, in addition to the life of the mother. So this was
12 not just courts.

13 Senator Nickles. But that was federal funds, not
14 State funds.

15 Senator Chafee. To restore Medicaid coverage, which
16 I presume involves State funds as well as federal.

17 The Chairman. The time has expired. The Clerk will
18 call the roll.

19 The Clerk. Mr. Chafee?

20 Senator Chafee. Aye.

21 The Clerk. Mr. Grassley?

22 Senator Grassley. No.

23 The Clerk. Mr. Hatch?

24 Senator Hatch. No.

25 The Clerk. Mr. Simpson?

1 Senator Simpson. Aye.
2 The Clerk. Mr. Pressler?
3 The Chairman. No, by proxy.
4 The Clerk. Mr. D'Amato?
5 The Chairman. No, by proxy.
6 The Clerk. Mr. Murkowski?
7 The Chairman. No, by proxy.
8 The Clerk. Mr. Nickles?
9 Senator Nickles. No.
10 The Clerk. Mr. Gramm, of Texas?
11 The Chairman. No, by proxy.
12 The Clerk. Mr. Lott?
13 The Chairman. No, by proxy.
14 The Clerk. Mr. Moynihan?
15 Senator Moynihan. Aye.
16 The Clerk. Mr. Baucus?
17 Senator Moynihan. Aye, by proxy.
18 The Clerk. Mr. Bradley?
19 Senator Moynihan. Aye, by proxy.
20 The Clerk. Mr. Pryor?
21 Senator Moynihan. Aye, by proxy.
22 The Clerk. Mr. Rockefeller?
23 Senator Rockefeller. Aye.
24 The Clerk. Mr. Breaux?
25 Senator Breaux. No.

1 The Clerk. Mr. Conrad?
2 Senator Conrad. Aye.
3 The Clerk. Mr. Graham, of Florida?
4 Senator Graham. Aye.
5 The Clerk. Ms. Moseley-Braun?
6 Senator Moynihan. Aye, by proxy.
7 The Clerk. Mr. Chairman?
8 The Chairman. No.
9 The Clerk. The votes are 10 yeas, 10 nays.
10 The Chairman. The amendment is not agreed to.
11 Senator Conrad. Mr. Chairman?
12 The Chairman. Senator Conrad.
13 Senator Moynihan. May I say, Mr. Chairman, we are
14 gradually getting ourselves to the point where there are
15 probably not more than three or four amendments on this
16 side.
17 The Chairman. Very good. Then we will need ----
18 Senator Conrad. I have five, myself, Mr. Chairman.
19 The Chairman. Senator Conrad.
20 Senator Conrad. But I hear the Ranking Member. I
21 have some of the same feelings myself.
22 Mr. Chairman, on this amendment Medicaid is an
23 important source of nursing home coverage for veterans.
24 Yet this bill undermines that safety net for those who
25 fought for their country.

1 The bill before us would not guarantee that all
2 eligible veterans could get nursing home services. It
3 would allow States to redefine nursing home services.

4 This bill, in my judgment, should not put veterans at
5 risk of losing nursing facility services if States run out
6 of federal money. The amendment would restore a real
7 enforceable guarantee of a meaningful package of benefits
8 for veterans who require nursing facility services.

9 The amendment does three things. One, restores the
10 current law guarantee with current law federal income and
11 asset standards; two, requires States to provide benefits
12 to veterans who require nursing facility services in an
13 amount, duration and scope sufficient to reasonably achieve
14 their purpose; and three, guarantees federal court
15 enforcement.

16 I hope my colleagues will support the amendment.

17 The Chairman. Senator Simpson?

18 Senator Simpson. Mr. Chairman, I chair the Veterans'
19 Affairs Committee. It is not a joyous task. Those who
20 have done it, Senator Rockefeller, Senator Murkowski,
21 Senator Cranston, know it is a tough issue, because you
22 bring up the word veteran and you can start a debate real
23 quick.

24 Senator Rockefeller. I loved my chairmanship.

25 Senator Simpson. What?

1 Senator Rockefeller. I loved my chairmanship.

2 Senator Simpson. I loved it, too, but it is vexatious
3 as can be. It is, I think, here to provide an incentive to
4 embrace it. Veterans are not the issue here. This
5 amendment would draft American veterans as kind of the
6 point men in an effort to defeat a reform of the out-of-
7 control growth of entitlement spending.

8 That is what this is. It has all been done before;
9 there is a history of it. Everybody studies it. In 1991,
10 the Senate was considering a measure by Senator Domenici to
11 finally limit the growth in entitlement spending, and the
12 first amendment on the floor was to exempt veterans because
13 the ancient phrase is always very simple: I will go along
14 with it if everybody else will go along with it.

15 So everybody then goes immediately to veterans, first,
16 then when they collapse then the Social Security people
17 come next, and it goes this way. Everyone then lines up at
18 the door for similar relief and any reform efforts
19 collapse, and it will be so again.

20 Yes, these are elderly Americans who are veterans and
21 who otherwise meet all of the eligibility criteria. They
22 now receive Medicaid-paid nursing home care. But that is
23 because they are Americans, not because they are veterans.
24 In 1955, the VA provided, directly or indirectly, nursing
25 home care to 79,000 veterans based on their veteran status.

1 That care was paid for from discretionary spending.

2 If you limit the application of this amendment to
3 veterans, then when we are talking about an entitlement
4 program that covers all Americans we then, in effect, will
5 create an entitlement only for veterans, and it would use
6 this special respect and deference I think that we provide
7 to limit or defeat any reforms that otherwise apply. But
8 I do not think that is service to veterans.

9 I remember that, please, if a veteran has a service-
10 connected disability which requires nursing home care, the
11 VA will provide that care now under current law. We are
12 talking about creating a special status for care for
13 veterans who happen to have been on active duty more than
14 half a century ago, without regard to whether that service
15 was in combat or they never left Camp Beetle Bailey. That
16 is not a smart-alec statement.

17 The tragedy of what we do with veterans continually is
18 that we make no distinction between the combat veteran, the
19 veteran who served in a combat theater, and the person who
20 served, ladies and gentlemen, eight months and never left
21 the U.S. and never left Camp Beetle Bailey. We make no
22 distinction.

23 We take awfully good care of our veterans. When I came
24 here, we were giving them \$20 billion and there were 30
25 million of us. And now there are 26 million of us, and we

1 give them nearly \$40 billion.

2 So when we come to the word veteran, I can only tell
3 you, I have had my head bashed by the best. Every service
4 organization has taken a chunk out of me. But at this
5 point, this is a special exemption from reform to a class
6 of Americans who already have more access to federal
7 nursing homes, we have State homes, we place them there, we
8 have 2.7 billion, we have 79,000 veterans funded with
9 nursing home care, 33,000 getting care from VA, getting it
10 from community nursing homes, all the rest. We do a
11 tremendous amount.

12 If you do this amendment, you will create a special
13 class. Then line up, because we will do this again and we
14 will carve out special exemptions, just as we have done
15 every single time in the past.

16 Senator Conrad. Mr. Chairman?

17 The Chairman. All time is up. I will give you 30
18 seconds.

19 Senator Conrad. Mr. Chairman, I think this is a
20 special class. That is the point. Unfortunately, under
21 this legislation the committee bill explicitly says the
22 guarantees of coverage last only as long as the money
23 lasts.

24 Unlike current law, the bill does not provide that all
25 persons with the so-called guarantee be served. That is

1 the problem here. I think veterans deserve an assurance,
2 if they need nursing home coverage, they are going to get
3 it.

4 Senator Simpson. Well, Mr. Chairman, they get it and
5 they get a lot of it. I cannot say how ----

6 Senator Conrad. That is under current law. But if
7 you make this change, they are not going to get it. You
8 cannot cut the money in half and say you have got a
9 guarantee, because this thing says when the federal money
10 is gone the guarantee is gone.

11 The Chairman. All time is up.

12 Senator Simpson. Mr. Chairman, that is not so. The
13 veterans of this country are taken care of ----

14 Senator Conrad. That is so.

15 Senator Simpson. [Continued]. In a remarkable
16 fashion, and will continue to be taken care of in a
17 remarkable fashion.

18 Senator Conrad. Well, they simply will not. They
19 simply will not.

20 The Chairman. All time is up. The Clerk will call
21 the roll.

22 The Clerk. Mr. Chafee?

23 Senator Chafee. No.

24 The Clerk. Mr. Grassley?

25 Senator Grassley. No.

1 The Clerk. Mr. Hatch?
2 Senator Hatch. No.
3 The Clerk. Mr. Simpson?
4 Senator Simpson. No.
5 The Clerk. Mr. Pressler?
6 The Chairman. No, by proxy.
7 The Clerk. Mr. D'Amato?
8 The Chairman. No, by proxy.
9 The Clerk. Mr. Murkowski?
10 The Chairman. No, by proxy.
11 The Clerk. Mr. Nickles?
12 Senator Nickles. No.
13 The Clerk. Mr. Gramm, of Texas?
14 The Chairman. No, by proxy.
15 The Clerk. Mr. Lott?
16 The Chairman. No, by proxy.
17 The Clerk. Mr. Moynihan?
18 Senator Moynihan. Aye.
19 The Clerk. Mr. Baucus?
20 Senator Moynihan. Aye, by proxy.
21 The Clerk. Mr. Bradley?
22 Senator Moynihan. Aye, by proxy.
23 The Clerk. Mr. Pryor?
24 Senator Moynihan. Aye, by proxy.
25 The Clerk. Mr. Rockefeller?

1 Senator Rockefeller. Aye.

2 The Clerk. Mr. Breaux?

3 Senator Breaux. Aye.

4 The Clerk. Mr. Conrad?

5 Senator Conrad. Aye.

6 The Clerk. Mr. Graham, of Florida?

7 Senator Moynihan. Aye, by proxy.

8 The Clerk. Ms. Moseley-Braun?

9 Senator Moynihan. Aye, by proxy.

10 The Clerk. Mr. Chairman?

11 The Chairman. No.

12 The Clerk. The votes are 9 yeas, 11 nays.

13 The Chairman. The amendment is not agreed to.

14 Senator Rockefeller. Mr. Chairman, may I ask a
15 question? Not an amendment, simply an inquiry, and I am
16 asking it of any of my Republican colleagues. In 1988 or
17 1989, I checked the State of Alabama and States can decide
18 how much of percentage of poverty their people must be at
19 before they qualify for AFDC. In Alabama, it was at 17
20 percent. I could not believe that.

21 A year ago, I went back and I said, surely since, as my
22 Republican colleagues were saying, governors and
23 legislatures do the right thing, it must be different. I
24 was right, it was different. It had gone from 17 percent
25 to 16 percent over poverty in order to qualify for AFDC.

1 I would ask any one of my Republican colleagues how
2 that describes responsibility in the State of Alabama and,
3 thus, potentially in this very large philosophical matter
4 that we are debating where governors know best?

5 The Chairman. Well, again, I would point to the chart
6 which shows that, by far and away, the larger share of
7 services provided are on an optional basis and not
8 mandatory. So a lot of these things could be canceled
9 currently that are not, and I do not think that would
10 happen under the reform.

11 But, in any event, what we are trying to do is give the
12 people back home the flexibility so they can provide better
13 services to more people.

14 Now, we will move on with any further amendments here.

15 Senator Chafee. Mr. Chairman, let me just briefly
16 describe--and if Ms. Paull could supplement this in any
17 fashion--currently there is set up under this bill a
18 supplemental fund for Medicaid for undocumented aliens, and
19 that is the fund that Senator Hatch was referring to.

20 But the way the money is distributed is by numbers of
21 undocumented aliens in each State rather than by the
22 percentage, so that you could have a small State that had
23 a relatively low number of undocumented aliens, but as far
24 as burden on the State it could be very, very substantial,
25 whereas you could have a larger number in a bigger State

1 representing a relatively small fraction percentage-wise,
2 yet that State would receive support from this fund.

3 So it seems to me that a fairer way of having the
4 distribution is to have it based on percentage in the State
5 rather than just strictly numbers. Under this, some States
6 will gain, there is no question about it. Florida would
7 gain, New York would gain, Texas would gain, New Jersey
8 would gain, Illinois would gain.

9 So, Mr. Chairman, I move that the system of making the
10 allocations to the States be on the basis of percentage
11 rather than on just numbers that exist in the State where
12 it might be a relatively small burden for that State, since
13 it is distributed on the basis of States.

14 The Chairman. Well, the proposal of the Senator from
15 Rhode Island would, of course, reallocate funds among the
16 various States and, I think, create considerable
17 difficulty. I would suggest, is this something we could
18 look at?

19 Ms. Paull. Sure, this is something we could look at.
20 What is basically happening, is the way this fund is
21 structured now, as Senator Chafee, I think, correctly
22 pointed out, is based on the top 15 States that have the
23 largest population in terms of numbers of illegal aliens,
24 and this amendment would shift things around.

25 Four of the States that currently qualify under the

1 bill would no longer qualify, and then three States, plus
2 the District of Columbia--including Rhode Island--would
3 then qualify under your formula, which is taking the number
4 of illegal aliens as a percent of the total population of
5 your State and rank States that way.

6 Senator Chafee. That is right. In our State we do
7 not have a million people, but we have got a lot of
8 undocumented aliens, as they do these calculations. Yet,
9 number-wise, compared to some other States, it is not much,
10 but it is a whale of a burden for us, particularly in our
11 school systems.

12 So I think it would be fairer, since you are putting
13 the money out to States, take it where the heaviest
14 percentage burden is or the heavier, and restricting it to
15 ---- I take it this is a demonstration project. How did
16 this thing get started?

17 Ms. Paull. Time-limited projects. It is a time limit
18 of five years. It was intended to give transition funding.
19 Hopefully we would have immigration reform. Senator
20 Simpson might be able to comment on that. This was
21 intended to give a transition period to help with some of
22 the other reforms in the bill as well.

23 Senator Simpson. Mr. Chairman, it is the money used
24 for the emergency medical, for immunizations, for soup
25 kitchens. This is the kind of thing it is there for, for

1 illegals. That is something that I have always supported
2 and that is on the books.

3 But I do think that Senator Chafee has a point, and he
4 is not hitting the big 11. It makes no change in
5 California, New York, Florida, Texas, Illinois, New Jersey,
6 Arizona, New Mexico, Massachusetts, Oregon and Colorado.
7 No change. They will still receive their own documented
8 alien fund, the same amount.

9 But it does make a change in the lower four, and I have
10 no interest in it except to say that it is an important
11 point for the District, for Nevada, Hawaii, or Rhode
12 Island, more so, maybe, than the four States who will come
13 off of there, which would be Washington, Maryland, Virginia
14 and Georgia, because of their population. But that is what
15 it does. I think there is some merit, perhaps, to it.

16 Senator Grassley. Mr. Chairman, could I ask for
17 clarification?

18 The Chairman. Senator Grassley, yes.

19 Senator Grassley. In your opposition you expressed
20 that it would cause some problems. Is that in regard to
21 the compromise that was worked out by the governors and in
22 regard to this formula, or does it have nothing to do with
23 that?

24 Ms. Paull. This is just the usual, if I could just
25 comment, Senator Grassley. There are various fundings in

1 the bill and States are expecting to receive what they
2 received in the last bill at least as much, and this went
3 into the mix of, those four States would be then no longer
4 receiving, possibly, as much as they did before. That is
5 why, when you start meddling with these formulas, you start
6 getting into some floor problems.

7 Senator Chafee. The ones I mentioned, Florida, New
8 York, Texas, New Jersey, and Illinois actually will receive
9 more because it is a higher percentage within their States.

10 Ms. Paull. I think the Hatch amendment lowered the
11 amount.

12 Senator Chafee. I would like to adopt this, if we
13 could. It seems to me the fairest thing. Sure, my State
14 comes up with something, but that is because we have got a
15 big percentage of these folks in our State and we are
16 struggling with it, doing the best we can. The suggestion
17 was we look at it. Well, I would much rather adopt it and
18 then look at it than just look at it.

19 The Chairman. Well, I suggest that we adopt it by
20 voice vote and look at it.

21 Senator Moynihan. Yes. Yes.

22 Senator Nickles. Mr. Chairman?

23 The Chairman. Yes, Senator Nickles.

24 Senator Nickles. I do not have a dog in this fight,
25 but I can tell you, there are a few people that will.

1 Correct me if I am wrong, Senator Chafee, but if your
2 reformulation is correct you are going to move Rhode
3 Island, and I am not sure what other States, up. But you
4 are going to be knocking off Maryland and Virginia.

5 Virginia has 35,000 illegal aliens; they will get
6 nothing under your proposal. Rhode Island has 8,000
7 illegals. I think you are going to hear some complaints.
8 The same thing with Maryland. They have 27,000 illegals;
9 they will get nothing, I think, if I am reading this
10 correctly.

11 Senator Chafee. Well, the thing is, I am looking at
12 the percentages. In Rhode Island, it is 0.8 percent; in
13 Maryland it is 0.54. So, it is a very small percentage.

14 Senator Moynihan. Why do we not accept this and look
15 at it, because Senator Nickles has made a point, and it is
16 understandable.

17 Senator Chafee. Well, hang on one second.

18 Senator Nickles. Mr. Chairman?

19 The Chairman. Yes, Senator Nickles.

20 Senator Nickles. Again, this is not my fight, and I
21 will leave it to other people that have 15 States and the
22 reallocation of the monies. But just looking at the staff
23 recommendation, at least you are giving money to States
24 that have 25,000 or 30,000 illegals in 1992.

25 I think the staff allocation, as I am reading it now,

1 makes more sense than the one proposed by Senator Chafee,
2 which would just be based on the percentage of population.
3 You can do what you want. My guess is, this thing will
4 probably be revisited on the floor anyway.

5 Senator Chafee. Well, if we could voice vote it and
6 take a look at it, that would certainly satisfy me, just
7 like we did with Senator Hatch.

8 The Chairman. All right. Those in favor, say aye.

9 [A chorus of ayes.]

10 The Chairman. Opposed, nay.

11 Senator Nickles. No.

12 The Chairman. The ayes appear to have it.

13 Senator Breaux?

14 Senator Breaux. Mr. Chairman and members, I have an
15 amendment on what is called vouchers. I think we all agree
16 that any welfare bill we pass should be tough on work and
17 good for kids. We have heard that time and time again.

18 But I am really concerned that the bill in its present
19 form, without the amendment that I am offering--I have two
20 related amendments on so-called vouchers--is really very
21 hard on penalizing innocent children who did not ask to be
22 born into this world and did not ask to be on welfare and,
23 through no fault of their own, their parent happens to be.

24 The current bill before the committee forbids any
25 federal funds being used by the States to take care of

1 children after their parent has been terminated off of
2 welfare after five years.

3 Now, let us face it, you may have a lazy parent who
4 does not want to work and just refuses to take all the help
5 we can possibly give. I am all for being as tough as you
6 can on that parent.

7 But what about the two babies that live in that home or
8 that family who also will be immediately terminated from
9 being able to get any help from the State? That is what
10 this bill does.

11 Now, be tough on the parent, but do not be tough on the
12 innocent children who are the victims of all of this. If
13 that child needs another coat for the winter, or additional
14 food supplies, or things that are needed, the State should
15 be allowed, I think, to use federal funds to help the
16 children.

17 So my first amendment would require States to provide
18 in-kind assistance for children if a State imposes a time
19 limit on the parent of less than five years, say from two
20 to five years.

21 Suppose the State is really tough and says, we are
22 cutting you off after two years. Well, should the State,
23 using federal funds, not have some obligation for the
24 innocent child?

25 So my amendment would say that if a State picks a time

1 limit for curtailing welfare that is less than five years,
2 the States is required to provide in-kind voucher
3 assistance for the child. It makes it optional after five
4 years.

5 I mean, five years is a long time, so we do not mandate
6 it. But we say to the State that they can, if they want
7 to, institute a program to provide help to the children
8 after five years, but we require, if the State puts a
9 termination date of less than five years.

10 The Chairman. Any further discussion?

11 Senator Breaux. I would say to my good friends,
12 Senator Simpson and Senator Chafee, this is the same
13 provision we adopted in our bill that we brought to the
14 floor on the Chafee-Breaux legislation which we all
15 supported.

16 Senator Chafee. What is a child, under 18?

17 Senator Breaux. Yes.

18 Senator Chafee. I would point out on this that, as is
19 pointed out here, the in-kind assistance is determined by
20 the States.

21 Senator Breaux. Right.

22 The Chairman. Senator Nickles.

23 Senator Nickles. Mr. Chairman, a couple of points.
24 One, I cannot help but remember a Reader's Digest article
25 that talked about a family--and I cannot remember if the

1 family was from Louisiana, but I think they were--where
2 someone had routinely tried to make sure that they received
3 welfare assistance for each child. It took several ----

4 Senator Breaux. A totally different situation. It
5 was a disability question, and the State termination on SSI
6 about a disability care. They got them qualified as being
7 disabled under this very generous disability definition,
8 and that is a whole other basket of problems. That was a
9 disability/SSI case.

10 Senator Nickles. Well, it just came to mind.

11 The other point I was going to make, is we now have--
12 correct me if I am wrong, or staff correct me if I am
13 wrong--but when we passed this bill originally last year we
14 had an exemption where States could waive for, what, 10 or
15 15 percent, and this provision is 20 percent?

16 Ms. Paull. That is correct, Senator. It was 15, and
17 it has been changed to 20.

18 Senator Nickles. So to take care of the children that
19 Senator Breaux was talking about, they have the work
20 requirements, they have the time limits, the five-year
21 maximum. They could do something less, but the State also
22 has the ability to have an exemption for 20 percent of the
23 families, the hard cases.

24 Ms. Paull. That is right.

25 Senator Nickles. The ones that maybe you cannot get

1 off welfare, for whatever reason. They would have up to a
2 20 percent exemption; is that correct?

3 Ms. Paull. That is correct.

4 Senator Nickles. But, under Senator Breaux's
5 amendment, it would require the States to provide, I guess
6 not in cash, but in-kind, which could be a voucher for food
7 or it could be something else.

8 I know the governors are already mad at this proposal
9 and we are adding more mandates, and we have added to the
10 eligibility population, as Senator Chafee alluded to, going
11 up to age 18. So we are mandating more and more people be
12 covered, and we are mandating more and more benefits on the
13 defined benefit side, and the money is not going up.

14 Senator Breaux. Would the Senator yield on that
15 point?

16 Senator Nickles. I hate to keep adding to it. I
17 think we are going to be making a mistake.

18 Senator Breaux. Well, we agree on that very point.
19 This is permissive. This allows the State, if they want to
20 after five years, to provide in-kind assistance to the
21 children. Cut the parent off, make them go to work, but do
22 not absolutely penalize the innocent child.

23 This does not mandate that a State do anything for the
24 child, but it does allow them to do, because the bill is a
25 mandate saying you cannot. My amendment simply says that

1 after five years you can if you want to. If you do not
2 want to, you do not have to.

3 Senator Nickles. Excuse me, Senator, but I just read
4 the first line and it said to require States.

5 Senator Breaux. No, no.

6 Senator Nickles. It did not say to allow.

7 Senator Breaux. No. If they decide a termination
8 date or time limit of less than five years, it would
9 require it. If they have a time limit of five years, it
10 would be permissive after that.

11 This bill says that after five years you could not use
12 any federal funds to aid with in-kind assistance to an
13 innocent child. I think that we ought to at least give the
14 State the authority to do that, and I would require it if
15 it is less than five years.

16 Senator Conrad. Mr. Chairman?

17 The Chairman. Yes, Senator Conrad.

18 Senator Conrad. Might I just briefly make the point
19 that, at the required five-year time limit, that is 2.6
20 million children that will lose assistance. The States
21 have flexibility to set time limits. If they go to a two-
22 year time limit, that would be 5.5 million children that
23 will receive no assistance.

24 Now, that is an additional 2.9 million children if they
25 go to a two-year time limit instead of a five-year. 2.9

1 million. I am all for, let us get tough with the parents.
2 Let us insist on work. That is exactly the right policy;
3 for those that can work, they should work.

4 And, by the way, that is at the 20 percent exemption
5 level, because I have got the calculations based on 10
6 percent exemption, 15 percent, 20 percent exemption. That
7 takes account of the 20 percent exemption.

8 But are we really going to say, if there are kids out
9 there and the State decides to cut off the parents at the
10 end of two years, we are going to do nothing for the kids?
11 I cannot believe that.

12 Senator Rockefeller. Mr. Chairman?

13 The Chairman. Senator Rockefeller.

14 Senator Rockefeller. Just to comment.

15 The Chairman. Time is running out.

16 Senator Rockefeller. Yes, I understand that. But I
17 think this is a seminal decision and will speak worlds
18 about the sense of public responsibility and character of
19 each of us on this committee who vote for it.

20 It is absolutely incomprehensible to me. I cannot
21 imagine a single Senator in this Senate actually being
22 willing to say that when the two years, three years, five
23 years, whatever it is, runs out, that the children will pay
24 the price because the parents did not meet our definition.
25 I cannot believe that a Senator would actually vote that

1 way.

2 This is not a question of whether they are just simply
3 taking a voucher away, this is pure, classic meanness. I
4 think the vote should be listened to. I think the vote is
5 really a signal about how far our people are willing to go.

6 We have already said, no, we cannot do Alzheimer's, we
7 cannot do veterans, we cannot do other people because you
8 cannot start picking groups. Well, here is another group
9 called children. At the end of two years, if you want to
10 cut them off, give them no food, give them no vouchers,
11 just cut them off and dump them, then go ahead and vote
12 against Senator Breaux.

13 Senator Chafee. Wait a minute, Mr. Chairman. I am
14 for the amendment, but I do not like it placed in those
15 terms, meanness, and dumping children. Those who might
16 choose to vote against this amendment would do so for a
17 whole variety of reasons, and I am not going to suggest
18 that those who vote against this amendment are mean, or
19 cruel to children, or anything like that. So I do not want
20 to associate myself with the Senator from West Virginia's
21 remarks.

22 Senator Rockefeller. But you are for the amendment.

23 Senator Chafee. I was for it before you started
24 talking. Now you have shaken me because it will look like
25 I am kowtowing to some suggestions that you made. I was

1 for this. You are about to lose my vote. You will, if you
2 keep it up.

3 The Chairman. Senator Simpson.

4 Senator Simpson. Mr. Chairman, I take offense to that
5 and I do not really have to sit here and listen to that.
6 This is not about meanness or base meanness against
7 children. What it is about is raw partisanship, and that
8 is very unseemly.

9 The Chairman. Could I ask the distinguished Senator,
10 is it not also true that a family may still receive food
11 stamps, housing assistance and Medicaid? So it is not
12 accurate to say that they are being cut off with these
13 matters.

14 Senator Simpson. Mr. Chairman, every single thing we
15 have heard today, as we try to isolate the evil that is
16 supposed to be going on, these people are taken care of in
17 society in the most extraordinary ways, with many other
18 benefits, including illegal people are taken care of, with
19 immunizations, with emergency medical care, with disaster
20 relief, with food kitchens. I mean, this will not sell.

21 Somebody is going to have to pay these bills. For
22 every one you look around and say, this is a cut, go find
23 what other supplemental program they receive. Go to the
24 States of those who sit on this committee and find out the
25 per capita taxpayer's money going to citizens of those

1 States. That will wake you up.

2 The Chairman. All time is up. The Clerk will call

3 the roll.

4 The Clerk. Mr. Chafee?

5 Senator Chafee. Aye.

6 The Clerk. Mr. Grassley?

7 Senator Grassley. No.

8 The Clerk. Mr. Hatch?

9 The Chairman. No, by proxy.

10 The Clerk. Mr. Simpson?

11 Senator Simpson. No.

12 The Clerk. Mr. Pressler?

13 The Chairman. No, by proxy.

14 The Clerk. Mr. D'Amato?

15 The Chairman. No, by proxy.

16 The Clerk. Mr. Murkowski?

17 The Chairman. No, by proxy.

18 The Clerk. Mr. Nickles?

19 Senator Nickles. No.

20 The Clerk. Mr. Gramm, of Texas?

21 The Chairman. No, by proxy.

22 The Clerk. Mr. Lott?

23 The Chairman. No, by proxy.

24 The Clerk. Mr. Moynihan?

25 Senator Moynihan. Aye.

1 The Clerk. Mr. Baucus?
2 Senator Moynihan. Aye, by proxy.
3 The Clerk. Mr. Bradley?
4 Senator Moynihan. Aye, by proxy.
5 The Clerk. Mr. Pryor?
6 Senator Moynihan. Aye, by proxy.
7 The Clerk. Mr. Rockefeller?
8 Senator Rockefeller. Aye.
9 The Clerk. Mr. Breaux?
10 Senator Breaux. Aye.
11 The Clerk. Mr. Conrad?
12 Senator Conrad. Aye.
13 The Clerk. Mr. Graham, of Florida?
14 Senator Moynihan. Aye, by proxy.
15 The Clerk. Ms. Moseley-Braun?
16 Senator Moynihan. Aye, by proxy.
17 The Clerk. Mr. Chairman?
18 The Chairman. No.
19 The Clerk. The votes are 10 yea, 10 nay.
20 The Chairman. The amendment is not agreed to.
21 Senator Breaux. Mr. Chairman?
22 The Chairman. Senator Breaux.
23 Senator Breaux. I have another that will take only a
24 say-so, a related amendment to the first one I just
25 offered.

1 The Chairman. Please proceed.

2 Senator Breaux. It deals with the same subject and it
3 is just a variation of the first.

4 Senator Chafee. Same vote?

5 Senator Breaux. I do not think so.

6 Mr. Chairman, the second amendment being passed out
7 would give absolute, total flexibility. Everybody is
8 talking about, we do not want to mandate anything to the
9 States.

10 Well, my amendment says, very simply, that in my Number
11 10 amendment that it would provide States the flexibility
12 of using block grant funds to provide in-kind assistance to
13 children after the five-year limitation. It does not
14 mandate it. It allows it. It does not mandate it for
15 those, if they have a lower year figure from two, three or
16 four years. There is no mandate. But it says to the
17 States, we are giving you the discretion if, with the money
18 you have, you want to help children whose parent has been
19 cut off of welfare assistance, you have the authority to do
20 so after a five-year time limit.

21 Now, that is the change from the bill, because the bill
22 says that you cannot. You do not have the Federal
23 Government's permission to do it, even if you want to.
24 That is what the bill says.

25 My amendment says, if the State wants to provide in-

1 kind assistance with the money they have coming to them
2 after a five-year limit, they have permission to do so. It
3 is their choice. If everybody says we do not want to
4 mandate things to the States, well, the bill mandates
5 something. It mandates the negative; you cannot do it,
6 even if you have the money to do it.

7 My amendment say that after a five-year period, if the
8 State decides in their wisdom with their funds that come to
9 them that they want to help children after a five-year
10 cutoff of the parent, they have the authority to do so.

11 The Chairman. Is there any further comment?

12 Senator Nickles. Mr. Chairman?

13 The Chairman. Senator Nickles.

14 Senator Nickles. Mr. Chairman, I agree with Senator
15 Breaux on many things, but on the last two amendments I
16 vigorously disagree. I also want to say that I disagree
17 with Senator Rockefeller's comment, and just let it go.
18 President Clinton even supports a five-year limitation, and
19 this is federal money.

20 So if you want to have time limits, we have a 20
21 percent exemption on the five years. This is saying, well,
22 let us have a 20 percent exemption and let us provide no
23 time limit whatsoever anyway. This is a good way, I think,
24 to just take the bill and make it more minimal. We need to
25 do some things to reverse this welfare crisis that we have.

1 We have a lot of people addicted to welfare. We need to
2 try and change that. I am afraid that this amendment is a
3 step in the wrong direction, and I would urge my colleagues
4 to vote no.

5 Senator Rockefeller. Mr. Chairman?

6 The Chairman. I would say that basically this is the
7 same arguments that we had on the prior amendment, and we
8 are anxious to move ahead.

9 Senator Rockefeller. Mr. Chairman, we have not been
10 five minutes. The Senator from Oklahoma is saying that the
11 Federal Government, in this instance, knows better than the
12 States, that the States do not have the intelligence to be
13 able to say, we have some money left over and we would like
14 to do something for children. Is that what the Senator's
15 proposal is? Because if it is not, then I would think you
16 would be supporting Senator Breaux. This is the option of
17 the State.

18 Senator Nickles. No, this is federal money. We have
19 a five-year limitation. This is an attempt to get around
20 the five-year limitation. We already have exemptions to
21 the five-year limitation ----

22 Senator Rockefeller. It is not an attempt to get
23 around it.

24 Senator Nickles. Yes, it is. To answer the Senator's
25 question, if the States wish to do more beyond that the

1 States can do whatever they want with their own money. But
2 we are saying, with federal money, they cannot.

3 I am troubled by both amendments, and I want to talk to
4 the Senator from West Virginia about his amendment because
5 I think he was ---- I want to make sure that we are both on
6 the same wavelength.

7 Maybe I will make a counter-proposal. I know that you
8 are concerned about kids. If we want to have the 20
9 percent exemption, let us make that available for kids. If
10 we are going to provide some leeway exemption of the five-
11 year time limit, maybe we could target that more towards
12 kids. But to say that we will have a five-year time limit,
13 but, oh, yes, if the States want to go ahead and bypass the
14 five-year time limit they can do so with federal money, I
15 think just guts the bill.

16 Senator Rockefeller. I thought the whole premise of
17 the Majority party's argument was that, yes, we are using
18 federal money, but let us give the States more flexibility
19 in how it is they spend that. We have never argued that
20 this is going to be other than federal money, the greater
21 part of it.

22 Senator Breaux. Would the Senator yield for a second?
23 This is a key point. We are talking about what the
24 governors said. We have a letter from the NGA--not the
25 Democrats, but the National Governors' Association, which

1 are both Democrats and Republicans, of course--which asks
2 us to support the amendment that applies the time limit
3 only to cash assistance after five years. Support of the
4 Breaux amendment.

5 This is the letter we just got from the Governors'
6 Association. The Republican Governors' Association and
7 Democrats together, signed by Raymond Shepherd, June 26,
8 asking us to support it and give them the flexibility to do
9 it if they want to. I would also add that the conference
10 report, H.R. 4, had this exact language in it, which was
11 the Republican proposal. This exact language.

12 The Chairman. I think the discussion has pretty much
13 covered the ground. I still oppose the amendment, and I
14 would ask the Clerk to call the roll.

15 The Clerk. Mr. Chafee?

16 Senator Chafee. Aye.

17 The Clerk. Mr. Grassley?

18 Senator Grassley. No.

19 The Clerk. Mr. Hatch?

20 The Chairman. No, by proxy.

21 The Clerk. Mr. Simpson?

22 Senator Simpson. No.

23 The Clerk. Mr. Pressler?

24 The Chairman. No, by proxy.

25 The Clerk. Mr. D'Amato?

1 The Chairman. No, by proxy.
2 The Clerk. Mr. Murkowski?
3 The Chairman. No, by proxy.
4 The Clerk. Mr. Nickles?
5 Senator Nickles. No.
6 The Clerk. Mr. Gramm, of Texas?
7 The Chairman. No, by proxy.
8 The Clerk. Mr. Lott?
9 The Chairman. No, by proxy.
10 The Clerk. Mr. Moynihan?
11 Senator Moynihan. Aye.
12 The Clerk. Mr. Baucus?
13 Senator Moynihan. Aye, by proxy.
14 The Clerk. Mr. Bradley?
15 Senator Moynihan. Aye, by proxy.
16 The Clerk. Mr. Pryor?
17 Senator Moynihan. Aye, by proxy.
18 The Clerk. Mr. Rockefeller?
19 Senator Rockefeller. Aye.
20 The Clerk. Mr. Breaux?
21 Senator Breaux. Aye.
22 The Clerk. Mr. Conrad?
23 Senator Conrad. Aye.
24 The Clerk. Mr. Graham, of Florida?
25 Senator Moynihan. Aye, by proxy.

- 1 The Clerk. Ms. Moseley-Braun?
- 2 Senator Moynihan. Aye, by proxy.
- 3 The Clerk. Mr. Chairman?
- 4 The Chairman. No.
- 5 The Clerk. The votes are 10 yeas, 10 nays.
- 6 The Chairman. The amendment is not agreed to.
- 7 Senator Moynihan. Well, that about does it.
- 8 The Chairman. Very good. Now we have to have how
9 many here?
- 10 Senator Conrad. Mr. Chairman, I do have one last
11 amendment I would like to offer.
- 12 The Chairman. All right.
- 13 Senator Conrad. I actually have five left, but I
14 would give you the good news, I would dispense with the
15 others and offer this final amendment.
- 16 The Chairman. In the meantime, I would ask the staff
17 to get the ----
- 18 Senator Moynihan. Have we not had a rolling quorum?
- 19 The Chairman. That is true. We have had a rolling
20 quorum.
- 21 Senator Moynihan. We have had a quorum here, sir,
22 several times.
- 23 The Chairman. Very good. All right. Why do we not
24 go ahead and take your amendment, then we will go ahead and
25 vote the legislation out.

1 Senator Moynihan. What makes you think you have the
2 votes to vote it out?

3 Senator Conrad. Because 53 amendments were adopted on
4 that side. There had to be a vote out there somewhere.

5 The Chairman. All right. While you are proceeding
6 with your last amendment, we will seek to get a quorum
7 here. I will so instruct the staff.

8 Senator Moynihan. Nobody is to leave.

9 The Chairman. Please proceed, Senator Conrad.

10 Senator Conrad. Mr. Chairman and colleagues, this
11 amendment deals with kids and pregnant moms. Medicaid
12 currently covers one out of every four children in America.
13 S. 1795 eliminates any real guarantee of coverage for
14 pregnant women and children, even though these are the
15 cheapest groups to cover.

16 Putting pregnant women at risk of losing medical
17 services would increase the incidence of premature and low
18 birth-weight babies and other costly complications.
19 Cutting off services for poor children puts at risk the
20 future productivity of a significant portion of our work
21 force. This just does not make any sense at all.

22 So I am offering this amendment because I do not think
23 this this bill, and I do not think most members here
24 believe we should put children or pregnant women at risk of
25 losing health care services.

1 I do not think a single member wants to eliminate
2 services for kids. But the reality is, when budget
3 pressures mount, kids' programs are the first to be cut.

4 Just a few weeks ago, John Deardorf, a Republican
5 political consultant, wrote in the Washington Post, "Nobody
6 who really knows the politics of most State capitols can
7 seriously doubt what block grants would mean: a massive
8 hemorrhage of protection and funds from children's and
9 families' health care." Of course, he is right.

10 This amendment would restore a real enforceable
11 guarantee of a meaningful package of benefits. The
12 amendment does three things: one, restores the current law
13 guarantee with current law federal income and asset
14 standards for kids and pregnant moms; two, it requires
15 States to provide benefits to children and pregnant women
16 in an amount, duration and scope reasonably sufficient to
17 achieve their purpose; and three, it guarantees federal
18 court enforcement.

19 This is an amendment that gives members a chance to
20 guarantee that kids and pregnant moms do not lose out in
21 State funding battles when States run up against their
22 block grant limits.

23 I am glad to have the support of members on the other
24 side, if they see the wisdom of this amendment. I thank
25 the Chairman, and I accept the unanimous endorsement of

1 this amendment that will be included in the Chairman's
2 mark, without objection.

3 The Chairman. I have to say that we do oppose the
4 amendment. We do provide for a guarantee in our current
5 legislation. It is not an entitlement, as this appears to
6 be, but we have complied with the request of the National
7 Association of Governors in providing guarantees for
8 children and pregnant women. So, I would urge the defeat
9 of the amendment.

10 Senator Simpson?

11 Senator Simpson. Mr. Chairman, I think that it is
12 important to note that any one of us who have dealt with
13 it--and I admire so much my friend from North Dakota--know
14 that when we get into the real honest work here it is going
15 to have to require co-payments, it is going to have to
16 require that when you go to utilize the services you are
17 going to have to pay \$5 or \$10. The only part about this
18 amendment that I have a problem with is it will not permit
19 any co-payments greater than those in effect on June 1,
20 1996.

21 I think we are going to have to go to co-payments, and
22 also original payments when you seek the services of a
23 physician, \$5, \$10. There are people who have been talking
24 about this for years, and we never do it. We have had some
25 good, strong votes, bipartisan votes, on this. This is not

1 a partisan issue.

2 The First Lady talked about that in her first health
3 care plan, about some kind of original payment. So that is
4 the reason I will not support it, simply because it does
5 not allow that co-payment to go up or at least be adjusted.

6 Senator Conrad. If I might say, that was in an
7 earlier version of this amendment. It is not in my current
8 version. To make certain that it is clear, I would offer
9 to strike anything that restricted co-payment because I
10 agree with the Senator from Wyoming with respect to that
11 issue. I think we are clearly going to have to have some
12 co-payments.

13 I, interestingly enough, had testimony when I was at
14 home from a doctor who had been in India for eight years,
15 who had been in England for eight years, and had been in
16 the United States for eight years. He told me about the
17 extraordinarily beneficial effect of co-payments in both
18 India and England in terms of reducing over-usage of the
19 system.

20 So I agree entirely with the Senator from Wyoming, and
21 I would ask unanimous consent if the amendment that I have
22 pending or has been circulated has that language in it, to
23 remove it so there would be no restriction on co-payments.

24 We had intended to circulate a second, revised
25 amendment that did not have that language, but I would ask

1 unanimous consent to strike that language and hopefully win
2 the support of the Senator from Wyoming.

3 Senator Simpson. Then the Senator will be voting for
4 this bill?

5 [Laughter]

6 Senator Conrad. First we have to complete the
7 amendment process, Senator.

8 Senator Simpson. I see.

9 The Chairman. Let me point out that this also
10 provides for action in the federal court. If there is any
11 area of concern on the part of the National Association of
12 Governors, both Republicans and Democrats, it is with
13 providing a federal cause of action. We have taken care of
14 enforcement at the State level by providing that there must
15 be a State cause of action.

16 That State cause of action can be filed
17 administratively, but it must be reviewable by the State
18 courts and ultimately it can be reviewed by the United
19 States Supreme Court.

20 In addition to these enforcements, we also provide the
21 Secretary of HHS the right to bring litigation on behalf of
22 individuals to protect or promote their rights. But I can
23 tell you that this language here is anathema to the
24 governors, and, for that reason, should be defeated.

25 Senator Conrad. Mr. Chairman, might I respond to

1 that?

2 The Chairman. Senator Conrad.

3 Senator Conrad. Mr. Chairman, I think what was
4 anathema to the governors was when we had the Boren
5 Amendment. That was the thing that was anathema. That has
6 been removed. I think most of us agreed with that.

7 But let us talk about reality here with respect to the
8 number of cases. On eligibility, we are getting eight
9 cases a year. Eight. Not 800, not 8,000, eight. On
10 benefits, 10 cases a year. Ten. Not 10,000, 10.

11 This is not the area of federal enforcement that has
12 been a problem, these are very limited in terms of the
13 number of cases. If you think about it rationally and
14 logically, you would see why. I mean, who could bring
15 these cases? These people do not have the money to go hire
16 a big fancy law firm and bring suit against the Federal
17 Government. It is not a problem.

18 A survey that was done with respect to asking the
19 States if federal enforcement was a problem in this area,
20 44 of the States--these are the Attorney General's Offices
21 that were surveyed--said it is not a problem.

22 The Chairman. Well, again, I would just say that the
23 governors have been very much concerned about action in the
24 federal courts. Part of their concern is that some far-off
25 district judge makes a ruling that applies throughout the

1 whole region. So, in any event, I oppose this resolution
2 and ask the Clerk to call the roll.

3 The Clerk. Mr. Chafee?
4 Senator Chafee. Aye.

5 The Clerk. Mr. Grassley?
6 Senator Grassley. No.

7 The Clerk. Mr. Hatch?
8 Senator Hatch. No.

9 The Clerk. Mr. Simpson?
10 Senator Simpson. No.

11 The Clerk. Mr. Pressler?
12 The Chairman. No, by proxy.

13 The Clerk. Mr. D'Amato?
14 The Chairman. No, by proxy.

15 The Clerk. Mr. Murkowski?
16 The Chairman. No, by proxy.

17 The Clerk. Mr. Nickles?
18 Senator Nickles. No.

19 The Clerk. Mr. Gramm, of Texas?
20 The Chairman. No, by proxy.

21 The Clerk. Mr. Lott?
22 The Chairman. No, by proxy.

23 The Clerk. Mr. Moynihan?
24 Senator Moynihan. Aye.

25 The Clerk. Mr. Baucus?

1 Senator Moynihan. Aye, by proxy.
2 The Clerk. Mr. Bradley?
3 Senator Moynihan. Aye, by proxy.
4 The Clerk. Mr. Pryor?
5 Senator Moynihan. Aye, by proxy.
6 The Clerk. Mr. Rockefeller?
7 Senator Rockefeller. Aye.
8 The Clerk. Mr. Breaux?
9 Senator Moynihan. Aye, by proxy.
10 The Clerk. Mr. Conrad?
11 Senator Conrad. Aye.
12 The Clerk. Mr. Graham, of Florida?
13 Senator Moynihan. Aye, by proxy.
14 The Clerk. Ms. Moseley-Braun?
15 Senator Moynihan. Aye, by proxy.
16 The Clerk. Mr. Chairman?
17 The Chairman. No.
18 The Clerk. The votes are 10 yeas, 10 nays.
19 The Chairman. The amendment is not agreed to.
20 Now, it has come to my attention that Section 216,
21 which allows an offset of overpayments of SSI benefits
22 against Social Security payment violates Section 310(g) of
23 the Budget Act. This violation, if uncorrected, would
24 subject the entire bill, not simply Section 216, to a 60-
25 vote point of order on the floor.

1 Senator Moynihan. I vote aye.

2 [Laughter]

3 The Chairman. I have not asked for your vote yet.

4 Consequently, I move to strike Section 216 from the
5 bill and be authorized, if it is necessary, to find a pay-
6 for to make up any shortfall in meeting our instructions
7 caused by the deletion of this section.

8 Senator Moynihan. A voice vote will do.

9 The Chairman. All those in favor, signify by saying
10 aye.

11 [A chorus of ayes.]

12 The Chairman. Opposed, nay.

13 [No response.]

14 The Chairman. The ayes have it.

15 Senator Rockefeller. Mr. Chairman?

16 The Chairman. Senator Rockefeller.

17 Senator Rockefeller. I assume you are going to have
18 the final vote.

19 The Chairman. Yes.

20 Senator Rockefeller. I just wanted to say something
21 with great sincerity and earnestness. There has been some
22 sharp exchange this afternoon, and I think I need to
23 explain. Whether it is on behalf of my colleagues or on
24 behalf of myself, I do not know, but I suspect it is more
25 than just myself.

1 I have been on this committee for a relatively long
2 time, and we have been considering welfare reform where I,
3 for example, was a governor and knew enough about it to the
4 extent that Pat Moynihan put me on the original Family
5 Assistance conference committee back in 1988, and Medicaid
6 is an enormous subject involving a large proportion of our
7 people in West Virginia.

8 It was not really until Friday night that my staff--
9 never was I involved--was allowed to talk about amendments,
10 and it was not until last night that we were "granted"
11 amendments. Now, there was a comment from the other side
12 that was not for the record but that I heard which said,
13 well, we gave them 68 amendments or whatever; what are they
14 going to do for us in return? I understand that. There
15 were some very good amendments that were given to us.

16 But my understanding of serious legislating done by a
17 serious and distinguished committee is that it is a
18 practice of give and take, it is something which develops
19 over time, it is something in which both Republicans and
20 Democrats, with their differences, do develop nevertheless
21 together.

22 The Chairman. Could I interrupt, because we have the
23 necessary quorum.

24 Senator Hatch. I move the adoption of the bill.

25 The Chairman. Those in favor ----

1 Senator Moynihan. Mr. Chairman, I must ask for a roll
2 call vote.

3 The Chairman. The Clerk will call the roll.

4 The Clerk. Mr. Chafee?

5 Senator Chafee. Aye.

6 The Clerk. Mr. Grassley?

7 Senator Grassley. Aye.

8 The Clerk. Mr. Hatch?

9 Senator Hatch. Aye.

10 The Clerk. Mr. Simpson?

11 Senator Simpson. Aye.

12 The Clerk. Mr. Pressler?

13 Senator Pressler. Aye.

14 The Clerk. Mr. D'Amato?

15 The Chairman. Aye, by proxy.

16 The Clerk. Mr. Murkowski?

17 The Chairman. Aye, by proxy.

18 The Clerk. Mr. Nickles?

19 Senator Nickles. Aye.

20 The Clerk. Mr. Gramm, of Texas?

21 Senator Gramm. Aye.

22 The Clerk. Mr. Lott?

23 The Chairman. Aye, by proxy.

24 The Clerk. Mr. Moynihan?

25 Senator Moynihan. No.

1 The Clerk. Mr. Baucus?
2 Senator Moynihan. No, by proxy.
3 The Clerk. Mr. Bradley?
4 Senator Moynihan. No, by proxy.
5 The Clerk. Mr. Pryor?
6 Senator Pryor. No.
7 The Clerk. Mr. Rockefeller?
8 Senator Rockefeller. No.
9 The Clerk. Mr. Breaux?
10 Senator Breaux. No.
11 The Clerk. Mr. Conrad?
12 Senator Conrad. No.
13 The Clerk. Mr. Graham, of Florida?
14 Senator Graham. No.
15 The Clerk. Ms. Moseley-Braun?
16 Senator Moseley-Braun. No.
17 The Clerk. Mr. Chairman?
18 The Chairman. Aye.
19 Senator Moynihan. Mr. Chairman, may I note that
20 Senator Baucus is present and voting.
21 The Chairman. And the results of the vote?
22 The Clerk. The votes are 11 yeas, 9 nays.
23 Senator Moynihan. I voted Senator Baucus by proxy,
24 but he entered the room at that moment. I wanted to
25 indicate that his vote was no, but it was a vote in person.

1 The Chairman. Senator Lott is here. Senator Lott.

2 Senator Bradley. Let the record show that I am
3 present.

4 Senator Moynihan. And you vote ----

5 Senator Bradley. And I voted no.

6 Senator Moynihan. Well, let us wrap it up.

7 The Chairman. We will hold the vote open.

8 Senator Moynihan. We have a majority. We can stop at
9 this point.

10 [Pause]

11 The Chairman. Senator D'Amato?

12 Senator D'Amato. Aye.

13 Senator Moynihan. A tie vote fails.

14 Senator Bradley. Regular order.

15 Senator Moynihan. Regular order. This is regular
16 order. It is going to become regular order, I can see.
17 Note the Democratic forces arrayed and secure, and
18 spiritually in heightening opposition.

19 [Pause]

20 The Chairman. Senator Murkowski?

21 Senator Murkowski. Aye.

22 Senator Moynihan. Mr. Chairman, can we have a vote
23 but have the roll call remain open for the remainder of the
24 day for any Senator who wishes to vote? That vote will not
25 change the outcome of the vote.

1 The Chairman. Without objection.

2 What is the final count?

3 Senator D'Amato. While it was still open, 10 to 9.

4 The Chairman. 11 to 9 by proxy to report the
5 legislation out favorably to the Senate.

6 The Chairman. Thank you very much, members of the
7 committee.

8 Senator Moynihan. Mr. Chairman, we thank you for your
9 unyielding courtesy and patience in what has not always been
10 an easy exchange. But, on to the floor.

11 The Chairman. Thank you, Senator Moynihan. The
12 committee is in recess.

13 [Whereupon, at 4:50 p.m., the meeting was concluded.]

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