

EXECUTIVE SESSION

- - -

SUPPLEMENTARY FUNDING RESOLUTION TO IMPROVE REVENUE

ESTIMATES

- - -

EXTENSION OF TEMPORARY DEBT CEILING

- - -

OTHER COMMITTEE BUSINESS

- - -

Thursday, March 16, 1978

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

The committee met, pursuant to recess, at 10:16 o'clock a.m., in Room 2221, Dirksen Senate Office Building, the Honorable Russell B. Long (Chairman of the committee) presiding.

Present: Senators Long (presiding), Talmadge, Byrd, Gravel, Haskell, Moynihan, Curtis, Hansen, Dole, Packwood, Roth, and Danforth.

Also Present: Messers Stern, Pritts, Shapiro, Wetzler, Galvin, Swoap -- Staff.

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The Chairman. Mr. Stern, what is our next order of

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1 business?

2 Mr. Stern. Senator Curtis raised before the committee
3 a few weeks ago a proposal to improve the revenue estimates
4 by funding the Chase Econometric Associates proposal to
5 develop a capacity for measuring feedback. A number of
6 members of this committee have been disappointed that the
7 revenue estimates are always based on a static assumption,
8 namely that everything will continue as it was before, but
9 with a change in the tax law -- even though the change itself
10 was designed to change the way people behave.

11 The Chase Econometric Associates have a model that is
12 used by Treasury, by the Joint Committee, and by the
13 Congressional Budget Office. They have proposed that an
14 additional \$250,000 would enable them to build this kind of
15 capacity into their estimate making.

16 To do this, the committee would have to approve a
17 supplementary resolution and go before the Rules Committee
18 and get this approved by the Senate.

19 The Chairman. Senator Curtis is not here to discuss
20 it, but he explained something about his views on this
21 before.

22 Let me tell you what concerns me about this issue. I
23 think that Senator Curtis is right.

24 We look at tax proposals which on their face would appear
25 to cost a considerable amount of money. Now some of those

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1 proposals have a remendous amount of feedback in them, the
 2 investment tax credit, for example. It is estimated that the
 3 cost of this is about \$9 billion. If you repeal the investment
 4 tax credit, you probably wouldn't make a nickel. The government
 5 would probably lose several billion dollars of revenue because
 6 people would quit placing orders.

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1 Senator Talmadge. We had that experience, if you
2 remember, once before. I believe the same administration that
3 asked us to repeal it came back on bended knee and asked us
4 to put it in again.

5 The Chairman. In six months they were frantically asking
6 us to reinstate it. In each case the estimates were just
7 exactly the opposite from reality when you saw what happened.

8 We are just not giving the Senate the best advice if
9 we do something where by failing to look at the secondary
10 and tertiary effects our estimate is badly in error, either
11 on the plus side or the minus side. We ought to try to take
12 account of the various things that would be involved and come
13 up with an estimate that takes these things into account.

14 Mr. Roth made the point with regard to the tax cut
15 that President Kennedy recommended, which included the investment
16 tax credit. That was a big item of it. But the package as
17 a whole, given the opportunity to work its way through the
18 economy, was not a revenue loser. It was a revenue gainer.

19 We ought to try to have the evidence to more accurately
20 reflect what the overall effect of one of these things would
21 be. It is difficult to say when you have a lot of facts to
22 prove that the economic result causes something to bring a
23 lot of feedback which brings additional revenue into the
24 government. We ought to try to know that just as we ought
25 to try to find out on some of these things whether in the long

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1 run it would cost a great deal more than it appears to cost
2 just on the face of it.

3 So I think that it is a good proposal and I would hope
4 that we would agree to it. I would be glad to ask the Rules
5 Committee to provide the funds for it.

6 Senator Packwood. Mr. Chairman.

7 The Chairman. Yes, Mr. Packwood.

8 Senator Packwood. I have no quarrel with Chase
9 Econometrics. I find their material good. But why can't the
10 Joint Committee do the same thing that they can do?

11 The Chairman. Well, I guess it could.

12 Mr. Stern. Mr. Chairman, actually the Joint Committee
13 does use the Chase model, as does Treasury and the Congressional
14 Budget Office. By providing this additional funding, you really
15 should be improving the quality of the estimates that are made
16 for the Congress.

17 Senator Packwood. All I am saying, Mike, is that I am
18 reasonably satisfied with what I get from Bob in the Joint
19 Committee. I don't see what further we get.

20 Is Chase going to give us a different set of projections
21 or is it simply going to provide more information which the
22 Joint Committee then can use?

23 Mr. Stern. What you should get is estimates other than
24 estimates based on a static model. In other words, when you do
25 change the tax law, such as in the case of the investment credit

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1 and so on, you are trying to change the way individuals and
2 businesses act. And yet, the revenue estimates themselves
3 usually assume no change at all.

4 Senator Packwood. I understand that.

5 Mr. Stern. That is the capacity that should be changed.

6 Senator Packwood. Doesn't the Joint Committee have the
7 capacity to do that?

8 The Chairman. Bob, let me just tell you why I think
9 we ought to do it ourselves.

10 The Joint Committee works for the Finance Committee and
11 it also works for the Ways and Means Committee. That Joint
12 Committee staff is expected to have a certain amount of
13 independence or judgment, which is not necessarily the view
14 of the Finance Committee, but is really more or less the view
15 of that staff itself.

16 Just as the Treasury can come in and give us one
17 estimate, the Joint Committee staff, if it wants to, can give
18 us a different estimate. The Budget Committee might want to
19 come up with a different estimate, and the Congressional
20 Budget Office with something else and the Joint Committee
21 on the economic report something else. But when we report a
22 bill as the Committee on Finance, we ought to be privileged
23 and we ought to have enough expertise to say for ourselves
24 that here is what the Finance Committee thinks this will cost,
25 or here is what the Finance Committee thinks this will raise.

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1 While we could look at everybody else's statement, if we
2 really think that, we ought to have the privilege of saying
3 so and putting a recommendation out which is the view of the
4 majority of the members of the Finance Committee.


5 Now the minority might want to say that I think this is
6 wrong as the dickens, but at the same time, any time we can
7 agree on something, we ought to be in the position to support
8 it.

9 Senator Roth.

10 Senator Roth. I agree with the Chairman.

11 One thing that has concerned me recently is this.
12 The Budget Office has obviously released their figures
13 slanted toward their position. Let's take as an example the
14 college tax credit. They came out with a very long financial
15 study backed up by some of their -- I think it would be
16 nice basically if everybody kept neutral, if that were possible,
17 and you had one center. But I think it is important that we
18 have figures here for this committee as the one primarily
19 responsible for taxes.

20 The Chairman. Let us just look at what happens.



21 Suppose we take an item such as Mr. Roth's amendment.
22 It is just par for the course -- I don't care who is doing it,
23 especially if it is an Executive Agency doing it. If they
24 don't agree with your proposal, they are going to put a high
25 cost on it; and if it is something to raise money, they will

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put a low estimate on it if they don't agree with it.

Now if they do agree with it, they are going to do business just the other way around. It tends to work out that way. At least we suspect so.

If you think the Treasury is bad that way, just go and look at HEW. Their ratio is roughly 200 to 1, depending upon whether they are for the proposal or against the proposal.

We could get all kinds of advice.

Now if we put it on the Joint Committee staff, suppose you have the Joint Committee against the proposal and the Finance Committee for the proposal. That would leave Mr. Shapiro and his group right in the middle. So I think it would be better if the Ways and Means Committee wants to be against something, for them to come out with what they estimate and for somebody else to take a different point of view. I think that those of us who favor the proposal ought to be able to put the revenue estimate on it that we think it deserves.

So, what if you do wind up with three or four different estimates? You still have the satisfaction of the one that you are supporting on the Senate Floor being the one that was appraised by you, the cost of which, if you want to do it, was estimated by your own committee.

If they want to, the people all can have their own different views.

1 Regarding the item of the investment tax credit,
2 when Mr. Woodworth was in the position that Mr. Shapiro now
3 occupies, I pressed Mr. Woodworth about the fact that they
4 were not giving us any feedback at all on the investment
5 tax credit at the time we were legislating on it. The estimate,
6 when we put it on -- the economy wasn't as big and the rate
7 wasn't as high -- was that it would be a \$5 billion revenue
8 loser. Well, the way it worked out for the economy, it appears
9 to have been a \$5 billion revenue gainer.

10 Then we repealed it. To repeal it would be like a tax
11 increase so we should have made money. The estimate was that
12 we would make about \$5 billion. Instead we lost about
13 \$5 billion.

14 So, after a while, the President frantically urged us
15 to put it back on. Well, when we put it back on it looked
16 as though we were giving a tax cut. Well, we made money with
17 it.

18 Every time we put it on, it appears to have made money,
19 even though we estimated it would lose us billions; every
20 time we repealed it, it lost us money, even though we estimated
21 it would gain money.

22 So it there is obviously a tremendous feedback involved
23 in that. I almost had to twist Larry Woodworth's arm to
24 make him find somebody who would give us any feedback at all.
25 It wound up being the Wharton School and Mr. [Kline], who

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1 Mr. Carter had recruited as his economic advisor when he was
2 running for President.

3 They gave us a 30 percent feedback factor. Now I think
4 that is too low. But in any event, it seems to me that if
5 we want to, we are entitled to look at whatever factors we
6 want to look at and to put our own estimate in there. That
7 is what ought to be reported out.

8 Senator Curtis. Mr. Chairman.

9 The Chairman. Yes, sir.

10 Senator Curtis. I support your viewpoint.

11 I think the worst thing we could have would be to have
12 a monopoly, a one-source monopoly on these estimates. This
13 is because there are a great many judgment factors and
14 economic viewpoints involved. If we have a role and somebody
15 else violently disagrees, why we can hold a meeting and have
16 them both spread out on the table what their assumptions
17 were and let them defend these. We can then make a decision
18 that is more apt to be accurate because it doesn't make any
19 difference what field you are dealing in.

20 I think it is exceedingly important because we are
21 living in a day when everybody respects the computer.
22 When somebody proposes something and some fine young person
23 comes up and tell us clearly and in detail how many jobs it
24 will mean ten years from now and how much revenue, and so on,
25 you know there had to be a lot of assumptions that were just



1 human guesses to come up with any answer like that. We not
2 only are in danger to becoming slaves to computers, but also
3 to being totally wrong in some instances if we don't consider
4 all of the possible angles and check them against each other.

5 The Chairman. We have to find out how people arrived
6 at this.

7 This committee, for example, wasn't handling the Natural
8 Gas Act, but we had to vote on it. We were told that if
9 the price of natural gas went above \$1.75, you would not get
10 one additional cubic foot of natural gas by going any higher
11 than that. That is what we were told. We legislated on that
12 assumption. At least, we were told that day in and day out
13 by the Department of Energy.

14 So finally somebody bothered to find out how the Department
15 of Energy arrived at that estimate. Do you know how they
16 arrived at that?

17 They proceeded on the assumption that if the gas were at
18 that price, all the drilling rigs that were available would
19 be working; and that being the case, you would not get any
20 more gas if you went beyond that price to encourage more
21 production.

22 That was based on the assumption that they could
23 manufacture 200 rigs a year. The industry could manufacture
24 2,000 rigs a year if you wanted to put enough incentive behind
25 it. So there is an estimate that was used all through the

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1 debate which was based on a total and complete fallacy.

2 It seems to me that the same thing could be true with regard
3 to these revenue estimates.

4 Would you care to comment on that, Mr. Shapiro? I
5 know that you might have a different view or at least you might
6 look at it differently than we do.

7 Mr. Shapiro. Let me say that I think your discussion
8 this morning has been relevant for the purposes of the committee
9 having more of the information from a revenue standpoint.
10 I think it may be helpful if I give you a little bit of
11 background as to what type of information you are going to
12 get.

13 This may not be inconsistent with what you are saying,
14 but you will not be getting revenue estimates that will tell
15 you, for example, the revenue costs of a tuition tax credit, or
16 necessarily the revenue costs of a capital gains change.

17 In other words, this Chase Econometric model won't go into
18 specifics, like the type of estimates we give. The problem
19 that we have is we do not have the capability with the
20 information we have to crank in the feedback so that we can
21 have any reliance that it is accurate, which is the reason
22 why there has been hesitancy on the part of this staff and
23 Treasury in the past to make predictions that we consider
24 accurate.

25 What we have done is to look at a static situation, saying

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1 these data are the tax return information for a given year;
2 we assume that you make a change; what would that effect
3 have been.

4 It does not necessarily crank in the feedback, which is
5 a concern and which we understand.

6 We do use these econometric models. We consult with
7 Chase and Data Resources and some others. In looking at
8 these models, the information that we get from them is that
9 when you have a given productive capacity, in other words,
10 when you have assumptions that are in the models, and let's
11 assume that you have a \$25 billion tax cut, what will that
12 do from an economic standpoint, and the models today predict
13 that. We make that information available to you.

14 What the models do not have today which you will be
15 getting with respect to this particular proposal that is being
16 made is to show the changes that would affect productive
17 capacity. For example, assume that you have a \$25 billion
18 tax cut, it would show the impact on labor force changes;
19 the impact on employment; the impact on consumption; technological
20 changes. In other words, it takes those things into account.
21 None of the econometric models today have that capacity to do
22 it in the way the Chase is proposing to you, and it may be
23 that some additional economic data would be helpful to the
24 committee.

25 It would not be precise. For example, it would not be

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1 a situation where you would say the investment credit would
2 be increased or changed and what would be the feedback of
3 that given level. You may not be able to get that. But,
4 given the information that this model is able to give to you,
5 we may be able to make some assumptions, given ~~the~~ revenue
6 effect on the static situation, the econometric assumptions
7 that they give, and be able to give you a better feedback
8 than we are able to today. But I don't want you to have the
9 impression that this model is going to show you the cost
10 of an investment credit with a feedback built in so that you
11 know the exact increase in productivity from one change. But
12 it will give us better information, hopefully, and give us
13 better assumptions with respect to a static situation plus
14 the productivity changes that they put into their model.

15 Some of these aspects they are doing today, but they
16 are not doing them as completely and to the extent that
17 they are proposing to do it now, to give as much of the
18 information as you would like.

19 The Chairman. If we got that, would that be information
20 that would be helpful in arriving at a correct decision?

21 Mr. Shapiro. I think it would help. In other words,
22 until we see the information they come out with and how
23 reliable it is, we don't know. But if they develop this
24 model -- you see, this is not a model that exists today. They
25 are proposing to do it if they have someone who is willing

1 to use it, and if you provide for this funding, they will
2 work on this model. If the information they put out is
3 reliable, it could be very helpful. We just have to wait
4 and see how the information is developed.

5 The Chairman. Senator Hansen.

6 Senator Hansen. Mr. Chairman, I want to follow up on a
7 point you made. I don't understand nearly as much as I wish
8 I knew about the precise model we are considering here, but it
9 seems to me that the need for whatever additional information
10 we can get certainly can't even be challenged.

11 Let me give you one example which will illustrate the
12 concept I have which I think argues strongly in support of the
13 proposal that the Chairman, Senator Curtis, and others
14 endorse.

15 We have had all kinds of estimates over the energy
16 situation concerning natural gas and crude oil. If you
17 want to talk about one group of economists, you can get a
18 statement that I know Senator Jackson has made repeatedly,
19 which is if we deregulate natural gas, it is going to cost the
20 consumers X number of dollars. You can get equally reliable
21 estimates that will say that it won't cost us but it will
22 save us this much. Some of the factors that are inherent in
23 that situation are these.

24 As our dependency on outside sources increases, what
25 likely will the OPEC countries do for one? What will happen

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1 in our own country insofar as alternate sources of fuel
2 go.

3 Now the presumption, a simplistic one that I think
4 oftentimes has been made by the Administration, is that these
5 things aren't going to change. You are going to be able to
6 buy substitute fuels or other energy sources here at the same
7 price that now exists. My point is that as the whole supply
8 and demand situation changes, these other factors change, too.
9 If a person is supplying coal, uranium, or whatever it is,
10 and the price goes up, he is going to up his price a little
11 bit, and conversely, or on the other side, I think that the
12 OPEC countries will not be unaware of the fact that more
13 people are depending upon them for energy.

14 I should think that this same overall situation is
15 very relevant to what we are talking about right here. I
16 would hope that we could have the best information available
17 and that we would have the advantage of being able to offer a
18 look at the other side so that we don't just get one source
19 of information.

20 I think the great advantage of research is the more it
21 can be spread out and diversified, the more it can be
22 state oriented, as contrasted with one single federal operation.
23 If you have it all done by one source and they make a mistake,
24 it is a very bad one. If you take American agriculture as
25 an example, and each person makes his own decision, then one

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1 farmer may make a bad mistake, but they are not all going to
2 make the same bad mistake. But if you have a system such as
3 they have in Russia, where somebody says what every farmer
4 in the country is going to do, you can really get off the base.
5 It would seem to me that this same logic argues very strongly
6 for adopting what the Chairman recommends.

7 Thank you, Mr. Chairman.

8 The Chairman. This is Senator Curtis' proposal and
9 I think it is a good idea. I think we ought to get the
10 information and see where it leads us.

11 Will all those in favor say aye.

12 (A chorus of ayes.)

13 The Chairman. Those opposed, no.

14 (No response.)

15 The Chairman. The ayes have it.

16 Let's take the next item of business.

17 Mr. Shapiro. The next item on your agenda is the
18 extension of the temporary debt ceiling.

19 The House has as yet passed a bill. It is before the
20 Senate.

21 The Ways and Means committee actually reported a bill
22 a week or so ago that raised the ceiling to \$824 billion
23 through March 1, 1979. This was defeated on the House Floor.

24 The Ways and Means Committee has had subsequent sessions
25 and the OMB has reviewed the situation and determined that it

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1 could continue the present level for an additional period of
2 time.

3 The present debt limit is \$752 billion, which is a
4 temporary level, which is intended to expire on March 31, 1978.

5 As you know, we have a \$400 billion permanent debt
6 ceiling and a temporary \$352 billion for a \$752 billion total.
7 The \$752 billion total expires March 31, 1978.

8 OMB has indicated to the Ways and Means Committee that
9 it could continue with the present \$752 billion for four
10 additional months, through July 31, 1978. The Ways and Means
11 Committee has agreed to that and has ordered a bill reported
12 to continue the present ceiling of \$752 billion for four
13 additional months, or through July 31, 1978. That has not been
14 considered on the House Floor. But in view of the fact that
15 the debt ceiling expires on March 31 and there is a
16 congressional recess at the end of next week, it may be that
17 the committee would like to review this situation and if it
18 should agree to the present Ways and Means Committee position,
19 and assuming that passes the House, you could hold the
20 House passed bill at the desk and have the Finance Committee
21 take its position with regard to that and take it right
22 from the desk so that the debt ceiling would not expire
23 before you come back at the end of the Easter Recess.

24 Senator Byrd. Mr. Chairman, may I be heard on that.

25 The Chairman. Yes, Senator Byrd.

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1 Senator Byrd. It seems to me that Mr. Shapiro has made
2 an excellent suggestion. There would be an opportunity for
3 the Finance Committee to agree with the Ways and Means
4 Committee, which we don't always do, I am glad to say.

5 But since the Ways and Means Committee has approved
6 continuing the \$752 billion debt ceiling until July 31,
7 it occurs to me that that is a good solution to the problem
8 at the present time. I would hope that the committee would
9 agree to go along with the proposal submitted to the House
10 by the Ways and Means Committee and thus settle this problem
11 because it has to be settled one way or the other before
12 we go on our Easter Recess. If not, the temporary debt
13 ceiling will expire at the end of this month.

14 I would urge the committee, Mr. Chairman, to take the
15 same course of actions that the Ways and Means Committee took.

16 The Chairman. All those in favor say aye.

17 (A chorus of ayes.)

18 The Chairman. Those opposed, no.

19 (No response.)

20 The Chairman. The ayes have it.

21 Mr. Stern: Mr. Chairman, there are two minor things
22 that we wanted to bring up in connection with drafting one
23 of the bills that the committee ordered reported. The first
24 is H.R. 7581, the telephone company bill.

25 Mr. Shapiro. One provision that was agreed to by the

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1 committee was an amendment sponsored by Senator Matsunaga.
2 This dealt with the earned income credit.
3

4 A question arose after the committee agreed to that.
5 The specific amendment was to permit the earned income credit
6 to be available in the case of grandparents, for example,
7 where they have children as dependents. The question is should
8 this be adult or minor children. That question was raised
9 after the committee made its decision.

10 The staff has subsequently talked to Senator Matsunaga
11 and as we understand it, he would like to say that it is for
12 a minor child. In this way the earned income credit would be
13 available when grandparents have, as a dependent, a child
14 which usually would be their grandchild. It entails essentially
15 using the word "minor." We would like to make sure that the
16 committee would agree to that for purposes of drafting.

17 The Chairman. Is there any objection?

18 (No response.)

19 The Chairman. If there is no objection, it is agreed
20 to.

21 Mr. Shapiro. The next matter is that the committee
22 agreed several months ago to an amendment sponsored by
23 Senator Talmadge dealing with tobacco cooperatives. At the
24 time the committee agreed to it there was no bill before the
25 committee. The bill that the committee reported as H.R. 7581
could be the appropriate bill to which the Talmadge amendment

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1 with respect to tobacco cooperatives could be added.

2 The committee has already agreed to the amendment. It is
3 just a question of putting it on an appropriate bill, and you
4 could add it to this particular one.

5 The Chairman. Without objection, then, we will add
6 it.

7 Now what other matters do we have that we ought to
8 consider at this point?

9 Mr. Stern. Those were the only matters that we were
10 going to bring up, Mr. Chairman.

11 The Chairman. What about the child support measure?

12 As I understand it, Senator Griffin introduced a
13 resolution to disapprove the child support regulations
14 of the Department. Everything I have read about this up to
15 now has indicated that those child support regulations amount
16 to a billion dollar subsidy for welfare fraud.

17 I would like to ask Mr. Galvin explain what that
18 problem is as he sees it and what reaction he is getting
19 from the states about that matter.

20 Mr. Galvin. We have heard from several states on the
21 question. Michigan, in particular, came up with what they
22 consider firm estimates on the cost that it would be, primarily
23 to the AFDC agency. That was in Michigan, which collects
24 more than any other state in the country in child support.
25 It would cost \$12.1 million additional in administrative costs.

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1 to handle this.

2 Michigan has 5.5 percent of the AFDC case load, and
3 if you project that to a national figure, this would amount
4 to approximately \$220 annually to implement the regulations.

5 In examining the regulations that implement Section 208
6 of Public Law 9488, I found that both the AFDC and the CSE,
7 the Child Support Enforcement Regulations, are contrary to
8 law.

9 The law is quite specific. It says that "the applicant
10 or recipient must cooperate with the state in establishing
11 the paternity of a child born out of wedlock with respect to
12 whom aid is claimed;" and (2) "for a child with respect to whom
13 such aid is claimed or entailing any other payments or support
14 due such applicant or such child." Section 208 added "unless
15 in either case such applicant or recipient is found to have
16 good cause for refusing to cooperate, as determined by the
17 state agency, in accordance with standards prescribed by the
18 Secretary, which standards shall take into consideration the
19 best interests of the child in whose behalf such aid is
20 claimed."

21 The AFDC regulation requires the state or local agency
22 to notify the child support agency, and it requires the child
23 support agency to suspend all attempts to secure support or
24 to establish paternity when the applicant or recipient files
25 a claim that good cause exists, even in those cases in which



1 support payments are being paid and/or paternity has been
2 established, and in those cases in which support could be
3 obtained or paternity established without the cooperation of
4 the parent or caretaker relative. It may not proceed on the
5 case until they receive a notice from the AFDC agency that
6 has determined that good cause for refusal to cooperate does
7 not exist.

8
9 Since the law states specifically that cooperation by
10 the applicant or recipient is required, until such applicant
11 or such recipient is found to have good cause for refusing,
12 then it is contrary to the law to submit and make the child
13 support agency suspend all operations if there has only
14 been a filing of a claim, and that is what the regulations
15 do in one part.

16 The Chairman. Let me ask you this. Is your position in
17 that respect supported by some of those who work for state
18 governments?

19 Mr. Galvin. Yes, it is. It is supported by Georgia,
20 Michigan, Massachusetts, Florida, Tennessee, and the
21 child support people in California. Those are the ones from
22 whom I have heard so far.

23 The Chairman. In other words, as I understand it,
24 they say that the refusal of a mother to cooperate in identifying
25 the father cannot serve as a basis for granting the welfare
claim if all you have is a mere filing of a claim.



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Mr. Galvin. That's right. That is exactly what the law says, sir.

The Chairman. They contend that what HEW is seeking to do to help these people get welfare checks when the father is well able to support the family is to help perpetuate fraud in many cases. This is really a direct violation of the law that we passed up here.

Mr. Galvin. That's right.

The Chairman. Here is the kind of thing that concerns me about this.

We have all kinds of cases on these rolls, such as where some mother comes in. The papa is living right there in the house with her and is making about \$1,000 a month. He drives her and the children right up to the welfare office and escorts them in. She goes in and files her application.

We passed a law saying that every effort should be made to determine who the father is and to seek support from the father before these people are put on the rolls at taxpayers' expense.

The rolls have doubled and then they continued to increase when the man-in-the-house rule was stricken down. No note of the fact would be taken that here was the mother living with a man who was presumably the father.

But logically, if a mother in that situation wants the state, the government, to support those children, she shouldn't



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be able to have it both ways. She shouldn't be able to, on the one hand, demand support of the state on the grounds that she has no support available from that father and then decline to tell you who the father is and reserve her right at the same time in the event that the father should leave that home to then proceed to sue him for child support.

In other words, it would seem to me that if she wants to claim support of the government for that family on the theory that the father cannot be made to support them, she shouldn't have the right to put that family on the back of the taxpayers and then to reserve the right, any time that papa might decide to leave or make himself unavailable to her, to then proceed to sue and get money from the man.

In other words, either the man is available to support that family or he is not. She ought to have to take her choice either to waive the right to call upon that man to support those children in the future or else to identify the father, in which event we pass laws to say that she doesn't have to sue them. If we have to support those children, we will sue him to get the money.

But now we have HEW, as I understand it, trying to give us a regulation -- you know, we were willing to go along with the farce of saying that she doesn't know who papa is. Well, we might even go along with her in saying she doesn't have to give us her best guess. But to say that she can have it



1 both ways -- that is another thing. She might say, "Well,
2 I'm afraid that he might beat me up if I tell you who papa
3 is." So, you put her on the rolls and pay all this money out,
4 and you put them on by the tens of thousands across this
5 country, and pay out literally billions of dollars to subsidize
6 welfare fraud. That is what that regulation is as I see it.

7
8 We have fought for years to try to stop that mischief.
9 The program has a bad name among the people of this country.

10 You have families living side by side and papa is with
11 both families. I am not saying whether he is married or not;
12 that is immaterial. But one family goes down and gets on the
13 welfare rolls for an extra \$5,000 even though papa is making
14 \$12,000 a year. So, they are getting \$5,000 in welfare
15 benefits, and they can live a lot better than the family next
16 door, where the people have a sense of morality which would
17 prohibit them from defrauding the taxpayer.

18 So the result is that the family that does business
19 as honorable people have to live at a much lower standard of
20 living than their neighbors next door and nobody is ever
21 going to ask mama to even identify papa. All she has to do is
22 say, "Well, I am afraid he might come in here and beat me up
23 and terrify the child if I should identify him."

24 So, she can live right with him. They can enjoy that
25 family income, enjoy \$5,000 in additional income in addition
to that for just a mama and one child, and look down their

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1 noses in scorn at the people next door and say to them, "Why
2 you silly folls. All you have to do is go down there and
3 get your money, too."

4 That is the kind of welfare outrage that middle income
5 America resents bitterly. They are right about it. They are
6 paying tax money to support that kind of fraud.

7 If this Administration is going to try to advance that
8 kind of welfare myth, that kind of disgrace on the taxpayers
9 of this country, then I predict that they are going to totally
10 fail with their so-called plans about welfare reform.

11 If their idea of welfare reform is to defraud and cheat the
12 taxpayers of this country, they are going to find themselves
13 defeated.

14 It looked as though Mr. Califano was only one man in
15 that whole Department who seemed to think that welfare reform
16 meant something other than just mailing out more checks.

17 I have called the Secretary and I asked him to hold up
18 those regulations to give us more time to look into this
19 matter and act on it, but I have not heard back from him.
20 I called him this morning. If he would do that, I would
21 be willing to take a little more time and have this in a more
22 orderly fashion.

23 But it seems to me that we gave ourselves the right of a
24 one House veto, anticipating that just this kind of outrage
25 might happen. I think that if we have no choice, we will have

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1 to do it.

2 Senator Moynihan.

3 Senator Moynihan. I think that Senator Gravel was
4 here first and he may wish recognition.

5 Senator Gravel. Thank you.

6 I think there is some confusion, Senator Long, because
7 if what is happening is what you are saying, I think we are
8 as outraged as you are. But the facts that I have received
9 are at variance with that.

10 Senator Laxalt. I can hardly hear you, Mike.

11 Senator Gravel. Oh, sorry.

12 The facts, as I have received them, are different from
13 that. So I am fairly confused as to really what is going on.

14 As I understand it, all that is being asked in these
15 regulations is that a woman can refuse to cooperate if there
16 is emotional harm. The key words are "emotional harm."

17 Now how do you define that? She can't come in
18 capriciously after her husband or her common law spouse has
19 dropped her off at the welfare office and refuse to recognize
20 that situation. She has to have proof, documentary proof,
21 with respect to incest and other activities of that nature
22 which would obviously demonstrate emotional harm to her and
23 to the children in question. That is what is involved.

24 I can't imagine that we have a large bureaucracy here
25 that is just going to refuse to pick up money in that regard.

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1 Senator Moynihan. It occurs to me that it might be
2 useful if our subcommittee held hearings on this and got a
3 record for the committee that responded to these questions.
4 It comes awfully new to me. I wasn't even aware that these
5 things were happening. Then, I think these regulations go
6 into effect on Friday.

7 Don't they, Mr. Galvin?

8 Mr. Galvin. The Register says on Friday, but the date
9 is incorrect. They cannot go into effect on that date.
10 It is against the law.

11 Senator Gravel. I think what the Senator is referring to
12 is we have until today to act on our 60 day limitation of a
13 veto, a one House veto, is that correct?

14 Mr. Galvin. We have through the 23rd to act. The law
15 states specifically that when it is received by the Finance
16 Committee -- it was received by the Finance Committee on
17 January 24.

18 Senator Gravel. If Senator Moynihan is correct that he
19 can hold hearings with some dispatch, even if the regulations
20 went into effect, we certainly can overrule those regulations,
21 can we not?

22 Senator Curtis. But why not hold up the regulations until
23 they come here and justify them?

24 Senator Moynihan. Is there someone here from HEW who
25 can tell us if they would be willing to hold them up?

1 Senator Gravel (presiding). Is there somebody in the
2 audience from HEW who can give us a report on this? If so,
3 would you please come forward and take a seat right there?

4 Ms. Amidei. I am Nancy Amidei, Deputy Assistant
5 Secretary for Welfare Legislation in HEW.

6 Senator Gravel. Would you please take a seat.

7 Ms. Amidei. Thank you.

8 Senator, the Secretary has been talking with Senator
9 Long already once this morning, as he mentioned. As a result
10 of that conversation he has asked the General Counsel's
11 Office whether or not it is within his authority to hold them
12 up at this point. He is not sure that is clear and he has
13 informed us that he is sending someone up from the General
14 Counsel's Office who ought to be here any minute and who will
15 be able to tell us.

16 Senator Gravel. Is it a proper inference, then, that if
17 he can legally do this that he would try to accommodate the
18 committee?

19 Ms. Amidei. It's possible. I think their first reading
20 of it was that if he did not put the regulations into effect,
21 the entire program would have to stop, that they were taking
22 a look at that and someone should be here shortly.

23 Senator Gravel. That is the information that I had
24 received independently, too, that inactivity would thwart the
25 law that has been on the books for two and a half years.

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1 That, I think, would be disastrous.

2 Mr. Galvin. That statement that the program would have to
3 shut down is not true.

4 There have been a few cases throughout the states on
5 this cooperation because of lack of regulation -- I would say
6 possibly in three states.

7 Without a regulation they do not have to follow the
8 cooperation clause. That does not close down the program.

9 Senator Gravel. I appreciate that. But I think, just
10 as an expression from one Senator, that the world is not going
11 to come to an end before Senator Moynihan's subcommittee can
12 get a handle on this and report back to us because we have a
13 lot of conflicting and varying information.

14 Senator Moynihan.

15 Senator Moynihan. Sir, if the committee it is a good
16 idea, it would seem to me that our subcommittee has been
17 derelict. I think we should have known about this and
18 done something and we didn't. For me to apologize and to try
19 to -- well, I mean, we are learning our way, as the subcommittees
20 go, and this apology is obviously a prelude or a request for
21 staff.

22 (General laughter.)

23 Senator Moynihan. Now, if we only had a small staff.

24 We only want a small staff.

25 Senator Gravel. Senator, you are carrying coals to

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1 Newcastle when you are talking to me about that.

2 (General laughter.)

3 Senator Moynihan. I think there are enough people who
4 have a view here -- you know, I would like to say, even though
5 the Chairman is out of the room, I would like to take the
6 opportunity to point out that I hope the members of the committee
7 saw the story by Spencer Rich in the "Washington Post" this
8 Monday, called "Runaway Fathers Program Proves a Major Success."

9 It is a very straight, very competent story and cites,
10 among others, Secretary Califano, who says that this program
11 is a success. He warmly praised Senator Long for his effort
12 to get it enacted in 1974.

13 But we have to recognize that the HEW bureaucracy thought
14 it was shocking, and the "Washington Post" had some not very
15 friendly things to say, which Spencer Rich in the "Washington
16 Post" quoted. An editorial had said that it was an unwarranted
17 intrusion of the Federal Government into our personal lives
18 which would yield little while costing a great deal, et cetera,
19 et cetera. It said that benefits are minimal at best and the
20 dangers are incalculable.

21 Well, they didn't turn out to be that. As Mr. Rich
22 says today no one is sniggering about the fact that 1 million
23 parents who would otherwise pay nothing but are now making
24 payments.

25 I would like to say that this HEW bureaucracy is curiously

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blind about some things. They have never seen this as an issue of woman's rights.

Women have a right not to be abandoned, not to be left somehow with the full responsibility for raising children for whose existence they have only one-half the responsibility.

One of the problems is that in HEW the bureaucracy that handles welfare isn't the bureaucracy that handles women's rights, and they can't cross this over. Russell Long, who has been the object of an awful lot of anathematizing by some pretty soft minded people in the city, has done as much for women's rights in this respect as any single piece of legislation that I know.

On the other hand, I think that there are these other questions, such as in what circumstances ought a mother properly not wish to reveal paternity. There are obviously such circumstances and I think these regulations were designed to deal with them. Since they were drawn up by HEW, I don't much trust them, but I would be perfectly happy to have a hearing for you.

Senator Gravel. Senator Curtis.

Senator Curtis. May I ask Mr. Galvin something?

Could we take some action here today that would maintain the status quo prior to the proposed regulations and hold it up until we had this hearing? We are going to have a hearing. We want the Michigan people and the local people to have a

1 chance to tell their story, too.

2 Mr. Galvin. The law gives you only one choice: the
3 veto resolution, which would stop the regulations completely.
4 It would leave the former regulations in.

5 The other alternative is that the Congress could pass a
6 law to suspend them, as it has done in child support, and that
7 it be signed by the President.

8 Those are the only two alternatives.

9 Senator Curtis. We could veto today with an understanding
10 that we would listen to see if we could agree on a new
11 regulations that they wanted to issue, couldn't we?

12 Mr. Galvin. Yes.

13 If one House passes this, then they would be held up.
14 You wouldn't necessarily come up with the same regulations.

15 This is one of the problems with these regulations.
16 The first set of regulations that were drawn up in 1975 were
17 roughly one column long. It had three types of reasons
18 that it would be in the best interest not to pursue it further.

19 The current regulations are seven columns long in the
20 "Federal Register," and, of course, to read and understand
21 them does take a considerable amount of time.

22 But in view of that, it is surprising to me with the
23 philosophy that the Secretary has espoused that he did not put
24 in proposed regulations so that everyone would have a chance
25 to comment on it and have a hearing.

1 They were requested by the National Welfare Rights
2 Organization, who was represented by the Center for Social
3 Policy at the hearing in November of last year, and the views
4 basically represent quite a bit of what the Center for Social
5 Policy has been in favor of.

6 Senator Gravel. Excuse me, but did you just say that
7 there were no proposed regs?

8 Mr. Galvin. No. They had proposed regs. They were
9 proposed in August of 1976. It has taken until January
10 before --

11 Senator Gravel. They were commented on extensively
12 by a lot of people?

13 Mr. Galvin. --they were commented on extensively.
14 There are approximately 1,700 comments that were received,
15 of which roughly 90 percent were against the regulations
16 because they were going to hurt child support.

17 Senator Gravel. Because they were going to what?

18 Mr. Galvin. Because they were going to cause the whole
19 child support enforcement program to just break down.

20 That is in the preamble.

21 Senator Gravel. Excuse me, but to make the statement
22 that 90 percent of the people commenting on the regs and then
23 the regs coming into being is a little bit preposterous.
24 It is preposterous that the Secretary would bring out regs
25 to which 90 percent of the people are proposed. Or a

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1 preposterous statement has been made by staff that that is a
2 fact.

3 Mr. Galvin. I am merely quoting the preamble.

4 Senator Gravel. I have the organizations before me
5 which testified: The American Academy of Child Psychiatry;
6 The Child Welfare League of America; The Federation of
7 Protestant Welfare Agencies; The Citizens Committee for Children;
8 Legal Services; Legal Aid Programs; AFDC recipient groups from
9 Alabama, Connecticut, California, Hawaii, Illinois, Indiana,
10 Iowa, Kansas, Massachusetts. Are you telling me that 90 percent
11 of all of these people have commented -- and I am just reading
12 a partial list -- against the regulations and now the Secretary
13 is jamming this down their throats?

14 Mr. Galvin. Let me read what the preamble to the
15 regulations say.

16 "We received approximately 1,700 responses to the notice
17 from private citizens, state and local welfare and child
18 support agencies, district attorneys, friends of the court,
19 legal service organizations, advocate groups, and others.
20 Approximately 1,500 comments were from private citizens, who
21 responded primarily to various newspaper accounts of the
22 proposed rule change. . . Over 90 percent of these objected to
23 the proposed change.

24 "The most common reasons given were that the proposal
25 will create a loophole in child support enforcement programs.

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1 They would tend to encourage irresponsibility on the part of
2 both parents, and it would result in an increased burden on
3 the taxpayer.

4 "Of those who commented in support of the proposal, many
5 were mothers receiving AFDC who did not want to participate
6 in the child support enforcement process. Several comments
7 came from social workers and the welfare system, who felt
8 that mothers should never be forced to cooperate in establishing
9 paternity in obtaining child support, especially in cases
10 where the mother has been threatened with harm."

11 The law specifically says that cooperation can be refused
12 where such refusal has been found to be in the best interest
13 of the child.

14 At the time that this committee discussed that -- it
15 was sponsored by someone and I was asked to discuss it -- I said,
16 if you want to include anyone else other than the child, let's
17 be specific. Let's include the mother. Let's include the
18 caretaker.

19 They wanted that just in the best interest of the child.
20 Senator Gravel. Is there someone here from HEW who
21 could comment on this statement?

22 The Chairman (presiding). Who is here from HEW who can
23 respond to that?

24 Ms. Amidei. We also have the Deputy Director from the
25 Office of Child Support Enforcement.

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1 The Chairman. Maybe we ought to hear from him.

2 Ms. Amidei. I can make a general comment about the process,
3 obviously.

4 The process is as Senator Gravel described it. In
5 addition to opening it up to written comment--we did receive
6 1,700 written comments -- Mr. Hays and other officials of the
7 Department have spoken directly with a number of the Child
8 Support Enforcement Officers around the country as they were
9 going around the country talking to them about the operation
10 of the program and the administration of it. So they had a
11 direct opportunity to talk to him about the regulations in the
12 course of his regular visits with them.

13 We have had additional conversations with any groups
14 that wished to make their comments known to the Department.

15 The NWRO did come to the Department and did make
16 a representation to the Department at their request. We
17 would, in addition, have had a personal representation from
18 anyone who wanted to come. Some people called on the telephone
19 and others sent in letters. But no one else asked to come and
20 meet with us directly, although we would have been pleased to
21 do that.

22 Senator Gravel. Would you comment upon the statement
23 that over 90 percent were in objection to the proposed
24 changes?

25 Mr. Hays. I am Louis B. Hays, Deputy Director of HEW's



1 Office of Child Support Enforcement.

2 It is correct that a majority of the comments that we
3 received to the proposed regulations did object to them.
4 Those objections really went on both sides of the issue.

5 Many of the objections were received from child welfare
6 groups, welfare rights organizations, and legal services groups
7 who objected that the proposed regulations were too restrictive
8 and could result in harm resulting to children and their
9 mothers.

10 Some child support agencies, welfare agencies, district
11 attorneys, and the type, objected to the regulations as
12 being too lenient and as perhaps creating a loophole in the
13 program that would damage the child support program.

14 Finally, we received quite a few comments from members
15 of the general public who were reacting to newspaper coverage
16 at the time to the effect that the regulations would excuse
17 mothers on a wholesale basis from cooperating with the program
18 and members of the public objected to any excusing or diminution
19 of the child support requirement.

20 We attempted in the final regulation to respond to
21 all of those concerns by having a regulation which would be
22 sufficiently restrictive to protect the integrity of the
23 child support program while still keeping with the intent of
24 the Congress that children and their mothers not be harmed
25 by the child support process.

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1 Senator Gravel. How do you prove that? If a
2 woman says that she does not want to cooperate, what is the
3 process that you go through in such a case?

4 Mr. Hays. The process that is provided for in the
5 regulations is that the mother must either present certain
6 specified types of documentary evidence which would, in
7 absence, set a prima facie case that physical or emotional
8 damage could occur to the child or herself, or if she is
9 unable to produce such conclusive evidence on her own, then
10 the state or local agency would be required to conduct an
11 independent investigation of her allegations and come to its
12 own judgment as to whether or not she has good cause for
13 refusing to cooperate.

14 The Chairman. If I might say so, this regulation you
15 have down here looks to me like about the silliest bleeding
16 heart thing I have seen in a long, long time.

17 Any time you have some low income family and they are
18 having a tough time making it, there are going to be quarrels
19 between papa and mama, and sometimes mama might slap papa in
20 the face and papa might even respond to that by slapping
21 back or even punching back. Those things happen in families.

22 All of that, of course, is an emotional stress on the
23 child and while we hope the child doesn't know about it, it
24 happens.

25 To say that because papa might get angry, might come back

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and be mean to mama, that it might occasion a family quarrel and the family quarrel might have an adverse effect on the child, and for that reason the taxpayer has to stand good for \$5 billion is ridiculous. Rather, we should ask the first simple question, who is the papa of this child.

That type of utter outrage is the kind of thing people can't understand.

Now I was a poverty lawyer before the government started paying poverty lawyers to be poverty lawyers. I was a poverty case myself when I was a poverty lawyer, and so was my partner. I wouldn't turn down any client who came inside my office.

So here comes some mother inside and she wants to get some support from papa. She is afraid of him. Well, I might say, if you are afraid of him, let's go down there to the judge and put this blame fellow under a peace bond. If he comes home and beats you up, we will put that fellow into jail, and we will keep him there until the judge is satisfied that that man has been adequately domesticated.

(General laughter.)

The Chairman. That is before we had the government paying people to do silly things and providing lawyers to come up with the wrong answers.

It would seem to me that when a mama come in seeking support she has about three different options. She can

1 identify the father; in the alternative she could say that
2 she doesn't know who he is.

3 Now if she says she doesn't know who papa is, then she
4 is waiving a valuable right while she is getting support from
5 the government. She is waiving a right. She is waiving the
6 right to later on come back and sue that man for support.

7 So we have to pick up the tab and pay for that family,
8 but on the other hand, she has waived the right thereafter.
9 She has made a prejudicial statement which would tend to
10 preclude her from claiming support from papa later on.

11 The third alternative, which this committee never intended
12 for you to have down there in that Department was to let her
13 have it both ways, to let her not to say she doesn't know is,
14 whol it is; not to identify papa, but to let her say, "I'm
15 afraid if I told you who the papa is that he might beat me
16 up or that that might lead to a confrontation between papa
17 and mama and that might have an adverse psychic effect on the
18 child. In that way she reserves the right to sue papa later
19 on and if papa proves to be the one who, for example, is
20 making \$60,000 a year or the one who has a whole chain of
21 fast food restaurants, she is reserving the right to sue him
22 when he lucks into a large amount of money, and at the same
23 time she is putting that family on the back of the taxpayer.
24 So she has the best of both worlds.

25 Now we didn't intend to let that happen. How did you



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get away with that? How did you people come to the conclusion that you could do that when to me it is very clear, as one who helped to write that legislation, that we didn't intend to leave that option open?

Mr. Hays. Mr. Chairman, as you know, Secretary Califano has expressed his complete support for the program and has, in fact, challenged us to increase, to double the amount of child support collections that are going to be made in this program over the next fiscal year.

Secretary Califano has asked me to relate to you and to the other members of the committee his very deep concern that given the status of litigation that is currently before the United States Court of Appeals for the District of Columbia, should the regulations be vetoed or withdrawn, the odds are very heavy that that court will issue an injunction which will have a very serious and damaging effect on the momentum that we have been able to maintain in this program.

We also have a representative from the Office of the General Counsel's Office who is also prepared to testify to that effect.

Secretary Califano is very concerned that the success that the program has evidenced over the last two and a half years not be slowed down and not be damaged by the regulations and legal action that may result therefrom.

Senator Danforth. Mr. Chairman.

1 The Chairman. Yes.

2 Senator Danforth. Could we just review where we
3 are procedurally and what our procedural options are? These
4 regulations, as I understand it, have been promulgated and
5 we have X number of days to veto the regulations.

6 Is that correct?

7 Mr. Hays. That is correct.

8 Senator Danforth. Therefore, if we do nothing, the
9 regulations, as they are, are in effect.

10 Is that right?

11 Mr. Galvin. You are endorsing the regulations as they
12 are.

13 Senator Danforth. So doing nothing is --

14 Mr. Galvin. -- is endorsing the regulations as they are.

15 Senator Danforth. How long do we have to exercise
16 the veto, if we want to do it?

17 Mr. Galvin. The resolution is January 23 and the law
18 in addition says that it has to be received by the Finance
19 Committee on January 24.

20 Senator Danforth. But it is now March.

21 Mr. Galvin. I'm sorry, I meant March.

22 SENator Danforth. So then what happens now? What is
23 the date by which we must exercise the veto?

24 Mr. Galvin. Being conservative, I would say by
25 March 23.

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1 Senator Danforth. By March 23, we, namely the Senate,
2 by vote on the Senate Floor, have to exercise the veto or the
3 regs are in place.

4 Is that right?

5 Mr. Galvin. That's right.

6 Senator Danforth. Now, do we have the option of vetoing
7 the regulations in part, or do we veto them in whole?

8 Mr. Galvin. You have no option. It is either up or down.

9 Senator Danforth. So it is in the whole?

10 Mr. Galvin. In the whole.

11 Senator Danforth. All of the regulations?

12 Mr. Galvin. All of this current final regulation,
13 which puts into effect the one that was issued in July, 1975.
14 That stays in effect.

15 Senator Danforth. If we were to veto all of the
16 regulations, would that mean that after March 23 -- what would
17 be missing? All regulations?

18 Mr. Galvin. No, no. This relates only to the good
19 cause for refusal to cooperate regulation, not to all the
20 regulations.

21 Senator Danforth. Only the good cause regulation?

22 Mr. Galvin. Only the good cause regulation.

23 Senator Danforth. But there would be no good cause
24 regulation after March 23 if the Senate doesn't act?

25 Mr. Galvin. There would. There was a good cause

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regulation put in in 1975.

Senator Danforth. Would that be reinstated?

Mr. Galvin. That would stay.

Senator Danforth. That would stay?

Mr. Galvin. That is current regulation.

Senator Danforth. So the current regulations would be in place?

Mr. Galvin. That's right, sir.

Senator Danforth. So we wouldn't be without anything at all.

Mr. Galvin. No.

Senator Danforth. What do the current regulations provide? What is the difference between them?

Mr. Galvin. The current regulations give you three possibilities for being found to have good cause. One is forcible rape; the other is incest; the third is adoption pending for a certain period of time.

Senator Danforth. Supposing a woman said, "I can't tell you because if I do tell you, the father will kill me. He is a psycho." That is not presently good cause?

Mr. Galvin. Not at the present time.

Senator Danforth. Would the Senator yield?

Senator Danforth. Mike, I'm sorry, let me finish.

I don't know if you are planning to have hearings or not, but I will tell you this. There are some things I would

1 like to find out if we are going to have hearings. First, I
2 would like to know what the law is.

3 You say that these new regulations are contrary to the
4 statute, but do you have any legal opinions to back that up?

5 Mr. Galvin. Let me quote from the law.

6 The law, 42826, 454 (4) (a) and (b), require the
7 cooperation unless in either case such applicant or recipient
8 is found to have good cause for refusing to cooperate, as
9 determined by the agency. The regulations stop all child
10 support for anyone who files a claim, not a determination,
11 who just files a claim. Filing a claim does not meet the
12 requirements of the law. The law says "determined."

13 Senator Danforth. Is there a legal opinion anywhere?
14 Do we have a written opinion from any lawyer stating that
15 these regulations are without the scope of the law?

16 Mr. Galvin. Could I give you one more to show that it
17 isn't?

18 Senator Danforth. Yes, but I just would like to know
19 what other lawyers have said and done. That's what lawyers
20 do, they write legal opinions and I want to know if we have
21 any legal opinions on this.

22 Mr. Galvin. No, we did not request an opinion.

23 Senator Danforth. Has the General Counsel of HEW -- or
24 whatever he is called -- the Legal Counsel of HEW written a
25 legal opinion on this matter?



1 Mr. Galvin. I would assume that he must have. I don't
2 know whether it was the General Counsel or one from the office
3 was conferring about this and I think HEW could answer that
4 question better than I.

5 Senator Danforth. I would like HEW to answer that
6 question.

7 Do you have a legal opinion on this?

8 Mr. Hinchman. Mr. Chairman, Senator Danforth, and
9 members of the committee, I am James F. Hinchman and I am the
10 Associate General Counsel of HEW.

11 The General Counsel's Office has not written a formal
12 opinion on these regulations. It has reviewed them and we
13 do believe that they conform to the requirements of the
14 statute and that they are permissible with the Secretary's
15 authority to issue good cause regulations under the
16 statutory provisions.

17 Senator Danforth. So you differ with Mr. Galvin's
18 legal conclusions.

19 Is that right?

20 Mr. Hinchman. With respect to that specific issue,

21 yes, sir.

22 Mr. Galvin. May I enlighten Senator Danforth on a
23 question of the General Counsel of HEW?

24 We had considerable problems in the committee on
25 Social Security numbers. There were various General Counsel's



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1 opinions written one way and written the other way. There
2 were others by other generals counsel of other agencies
3 contrary to what HEW was saying.

4 We required that the General Counsel start sending
5 us their legal opinions and anything else, and about that
6 time, instead of going any further, they recognized that
7 the Social Security number was applicable.

8 So, the track record -- and I am not talking about
9 any administration--~~is~~ that ~~is~~ is open to question. I would
10 hardly think that when the law says something it is open to
11 question.

12 Senator Danforth. Well, you know that lawyers differ
13 and I think you made that case. You can ask different lawyers
14 the same legal question and you get different opinions.
15 Really, the only way to resolve it ~~is~~ by a court. But we
16 are not a court. It seems to me that we just have a difference
17 of legal opinion between you and the General Counsel of HEW
18 on whether or not this is within the scope of the statute.

19 I cannot make that kind of judgment based on an oral
20 presentation.--I will tell you that --not without hitting
21 the books. I think that if we are going to have any kind of
22 hearings, this is the kind of thing we would like to see
23 legal opinions and hopefully something in writing on.

24 The second thing I would like to say, Mr. Chairman, is
25 this.



1 It is amazing to me on this issue, or on energy or any
2 other issue, the kind of figures that just get bandied about.

3 When we went through the energy legislation, we went
4 through one proposal after another; we were told well, if we
5 have this kind of tax credit or that kind of tax credit, it
6 will save 200,000 barrels of oil a day and so on and so forth.
7 Then you ask people how they know that and nobody knows.

8 Now we have heard a statement that these regulations
9 would cost \$220 million a year. Then I thought I heard you,
10 Mr. Chairman, say they would cost \$5 billion a year because
11 apparently a whole lot of these fathers are the heads of
12 fast food restaurant chains.

13 It just seems to me to be really guess work as to how
14 much money is involved. If we are going to have some kind of
15 hearings and have some kind of evidence presented to us, I would
16 like, in addition to a clear lawyer-like statement of what the
17 law provides, some kind of statement of the basis on which
18 these dollar savings come up. I really will have to see it
19 to believe it, to think that \$220 million would hang on
20 this particular regulation.

21 The Chairman. Let me tell you how I arrive at my
22 figure, sir.

23 I arrive at my figure on the basis that a very large
24 percentage of those people on those rolls have available to them
25 someone who could be supporting that family if any effort at all

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1 were made to have that person do it.

2 Now the Department's own release is that we are saving
3 \$1.5 billion right now with the program that we have, and that
4 is with only half the states complying. Well, if you assume
5 the other half will go along with what Congress intended, that
6 is \$3 billion.

7 Then just take a look at what would happen if you move
8 in the other direction. If you add more fakers, frauds, liars,
9 and cheats on those rolls, that \$3 billion will move up to
10 \$5 billion. It is just that simple. That is how I arrive
11 at my \$5 billion figure.

12 Now some of us have fought awfully hard for many years
13 to stop this outright thievery of government money in the name
14 of welfare. We want the people who are needy to get more
15 money. But we don't want to accord to every father or every
16 mother in this country the right to load their families down
17 on these welfare rolls while other people are called upon to
18 do the first honest act, and do it, and pay taxes to support
19 all that kind of mischief and outrage.

20 I'm sort of tired of supporting programs for the disabled;
21 lead the charge for it, and then find out that they have three
22 times the number of people on the rolls that are supposed to
23 be there, and then go meet some of the individuals. They are
24 nice people; they are making more money than they could make
25 working by sitting up there on the disability rolls. Then I
find out that they have a job, all at the same time, and nobody

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1 is making any real effort to stop all that mischief.

2 Now I don't know how long we can keep passing debt limit
3 bills to keep putting this country deeper and deeper into
4 debt, and for the purpose of what? For loading down the
5 taxpayers with all sort of mischief and chicanery, which runs
6 into tens of billions of dollars a year -- that is it.
7 How long are the people of this country supposed to stand still
8 for all that kind of mischief?

9 Now we passed a bill which was clearly intended to say
10 that you would not have the option to chisel, cheat, and
11 reserve your rights all at the same time, and bless them, but
12 they come out with a regulation that gives them that right.

13 Those who write that regulations are afraid of the court.
14 Well, they must have some pretty foolish justices on some
15 of those courts. I know some of those people individually.
16 But I would like to think that if the Department had the
17 courage to go and appeal the thing through to the Supreme
18 Court, which is where it ought to be taken, you ought to be
19 able to find five justices out of nine, as a minimum on that
20 court, who would listen to logic and reason. I don't see why
21 you should throw in the towel just for fear that you can't
22 get the judges to uphold the intent of Congress. It seems
23 to me that it is worth a try, especially if you take it up
24 with the Supreme Court.

25 Now I am willing to consider everyone's argument and



1 everyone's side of it. But I would just like to have the
2 thing postponed long enough for us to tackle it.

3 Senator Danforth. I certainly don't want to open the
4 floodgates to chiseling and fraud either. Far from it.
5 My only question is, is this really a floodgate? That is the
6 issue.

7 Just on its face it doesn't seem to me to be an
8 outrageous regulation. Maybe it is a floodgate. Maybe I
9 missed something in all of this. But it just seems to me that
10 it would be a little bit strange if we are going to have a major
11 raid on the Treasury by virtue of these regulations.

12 That is my only point.

13 The Chairman. Senator, let me just say this to you.
14 The State of Michigan has done the best job of any state of
15 the Union. They are very much concerned about that.

16 Isn't that right, Mr. Galvin?

17 Mr. Galvin. That's right, Mr. Chairman.

18 The Chairman. The Senator from that state, Mr. Griffin,
19 has a resolution in here of disapproval because a state that
20 has measured up and undertaken to do something about this
21 child support matter to a greater extent than any other state
22 now find itself saying that this appears to frustrate what
23 it is trying to do.

24 Senator Roth, do you wish recognition?

25 Senator Roth. Yes, Mr. Chairman.



1 I just want to go back to the procedure. Did you get
2 any answer from the Secretary as to whether or not they can
3 withdraw the regulations so that we could hold the hearing
4 that Mr. Moynihan suggested?

5 The Chairman. The Secretary explained a number of reasons
6 why he thought that there would be some legal problems if we
7 did not permit these regulations to go into effect.

8 He suggested that we let them go into effect and that
9 he would, in short order, start a new regulation procedure
10 and consider everybody's point of view with a view to bringing
11 down a new set of regulations.

12 He explained some of the legal problems which I would
13 prefer that he himself explain to the committee rather than
14 me try to explain it on his behalf. He is a good lawyer
15 and I think can best speak for himself in this instance.

16 Senator Hansen.

17 Senator Hansen. Mr. Chairman, you made the point that
18 I was going to make.

19 I talked with Senator Griffin. He is greatly concerned
20 on behalf of the state that he represents, Michigan. They
21 have done a very effective job and they feel that the
22 implementation of these regulations will frustrate their
23 attempt to continue on. I don't doubt at all but that we
24 could search through the files of HEW and find all sorts of
25 instances that would be dramatic and heart rending to support



1 any position that any member of this committee wanted to take
2 on one side or the other.

3 I am concerned, though, and I am persuaded by what seems
4 to me to be the inherent logic in your argument that granted
5 we are never going to have a perfect society, we are never going
6 to have regulations that just satisfy everyone and treat
7 all people fairly and understandably. But I think here is
8 the case where we ought to take the action that is inherent
9 in the proposal offered by Senator Griffin to stay these
10 regulations. I don't think that catastrophe is going to fall
11 down on the heads of a majority of Americans if we stop
12 the implementation of these regulations and then follow through
13 with the procedure that was suggested by Senator Moynihan,
14 to hold hearings. If a good case can be made to change them,
15 I should think that is the way we ought to do it.

16 As a former governor of a state and as a former country
17 commissioner who had a little bit to do with the administration
18 of welfare at the local level, I can tell you that it is a tough
19 job if someone wants to try to do the right thing and not to
20 run into regulations that tend to frustrate reasonable
21 attempts by fair-minded people who are compassionate who
22 would like to try to help those truly in need of help on the
23 one hand, and would seek, at the same time, to resist the
24 latitude in the law that would seemingly make other people
25 eligible who, indeed, on the basis of fact are not eligible.

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1 I would hope that we could recommend that the one House
2 veto be implemented and let them come forward and prove why
3 these proposed regulations would make for improvement.

4 I think that that seems to me to be a reasonable case.
5 There are many states that support that proposal. It would
6 seem to me if we deny them the right to be heard, we would be
7 doing more harm than we would good.

8 The Chairman. Here is the kind of thing that bothers
9 me about all this. And incidentally, let me say that I came
10 here to this Senate -- and that has been a long time ago, I
11 admit; Mr. Gravel might have been a boy in his knee britches
12 at that time -- I came here to this Senate as one of the
13 dangerous populists of this country. I was a welfare advocate.
14 People asked me what I hoped to do and what would be my first
15 objective when I got here. I told the press that it was my
16 ambition to expand the free school lunch program, to make it
17 a \$500 million program.

18 Now I must admit that that sounds like small potatoes
19 nowadays, looking at what the government has done; but that
20 sounded like a big deal back at that time -- \$500 million
21 for school lunches.

22 When I applied to get on this committee, I wasn't
23 interested in the tax part of it. I was interested in getting
24 some money for grandma and helping poor people and doing
25 something about unemployment insurance and helping poor folks.



1 who through no fault of their own were getting the worst of it.

2 I still feel that way about it.

3 I am still a dangerous populist from my point of view
4 because I still want to do something to help people who are
5 getting the worst of it. But the kind of people I want to help
6 are angry themselves about seeing neighbors who ought to be
7 doing to help themselves ripping off this government.

8 Now here they come with the welfare proposal, welfare
9 reform. The President starts out by saying that it is not
10 going to cost us anything. Then they think about it for a
11 while and say that it is going to cost us \$4 billion. Then
12 they send it down to the Congressional Budget Office and
13 Alice Rivlin and her people say that it will cost \$20 billion.
14 Well, it will cost \$100 billion if you are going to go about
15 it this way, where a family can have papa working and drawing
16 a good salary and the family drawing full welfare benefits
17 just as though papa wasn't there all the time.

18 Now if you are going to let them get away with that,
19 this thing will cost a fortune. If you are going to have
20 any welfare reform worthy of the name -- at least by Louisiana
21 standards -- I just don't know about Washington standards.
22 I just can't get accustomed to the thinking over in HEW.
23 But if you are going to have any kind of welfare reform
24 that makes any sense to people in Louisiana, and I think
25 the same thing would be true of people in Wyoming --



1 Senator Hansen. It sure is.

2 The Chairman -- that would have to be something that
3 says this. The first order of business is if there is a father
4 around and he can be found, then he ought to be made to pay
5 something to support his children. The second order of
6 business ought to be that there is no point in paying people
7 to sit there and live off the taxpayers if they are fully
8 capable of doing some work to improve their own condition
9 and if you can arrange matters so they can improve their
10 condition and do better. It doesn't serve a purpose to
11 encourage those people to live a lifetime of idleness if
12 they can do something useful to help justify their keep.

13 We have had some pretty fine people come along who did
14 not have the privilege of living with their father during
15 their whole lifetime. Some of them have gone on to be some
16 of the great people and some of the great statesmen of our
17 country as well as some of the great successes in the business
18 world.

19 If you are talking about the best interest of the child,
20 the best interest of the child is that mama and daddy ought
21 to set an example for them, and if not one, then the other
22 should set an example of good behavior. They should be an
23 inspiration. They should encourage them to be good, useful,
24 self-reliant and law-abiding citizens rather than encourage
25 them to be the opposite.

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1 If anybody thinks they are doing somebody a favor
2 by making a drone out of them, and a chiseler and a cheat for
3 life, and to set that kind of example for them, they ought
4 to reconsider their position.

5 I find myself most dismayed having lived among a lot of
6 poor people. It seems to me that when my family started out,
7 my father and mother were struggling just like everyone else
8 in the neighborhood where we lived to help make a life for
9 themselves and for their neighbors and to improve society,
10 and not to expect anything that they couldn't come by honestly.

11 If we are going to encourage everybody in this country
12 to be a thief, a liar, and a cheat and if we are going to
13 literally spend tens of billions of dollars to bring about
14 that result, then people would be well advised to vote some
15 of us out of office. They are entitled to a better accounting
16 of their money than that.

17 That is the kind of thing that the people can't understand.
18 They can understand having to pay money to defend the country,
19 or for the disabled, or for the aged and the sick. They can
20 understand that and they are willing to do it.

21 But the kind of thing we are talking about here they
22 can't understand. We ought to resist, I think, that thing
23 being done. We ought to prevent it if we can.

24 Now I would think that perhaps we could meet tomorrow
25 on this.

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1 Do we have a meeting scheduled for tomorrow, Mr. Stern?
2 Mr. Stern. There is a hearing scheduled in the afternoon
3 but we have nothing in the morning.

4 The Chairman. Maybe we could have Secretary Califano
5 with us tomorrow.

6 Senator Gravel. Mr. Chairman, may I comment first
7 before you close this hearing?

8 The Chairman. Sure. Why don't you go ahead.

9 Senator Gravel. Well, I don't think that some of us
10 can be cast in the role of supporting cheats and frauds
11 and doing all those things. Like yourself, Mr. Chairman, when
12 I came here I feel my credentials were pretty clear about how
13 I feel about the free enterprise system and the productive
14 value of individuals. I would take no back seat to anyone
15 in that regard.

16 But when I look at this particular instance, I don't
17 see the same thing. You know, that is the fault of human
18 beings. We all look at things and see things differently.
19 When I look at this, I don't see the ability to cheat. If
20 there are some cheaters, it has to be the government employees.
21 When the State of Michigan comes forward and says that this is
22 a terrible loophole, who is going to open the loophole? It
23 has to be a government employee who opens the loophole. This
24 is because a person has to come in with a prima facie case
25 that is documented that there would be some harm.

1 Then the government initiates an investigation and obviously
 2 it must be the government that passes on the investigation and
 3 not the recipient.

4 So the person who is the recipient can't come in and
 5 cheat and fraud. The regulations are very clear as to what can
 6 and cannot happen.

7 I submit that if all those bad things that you described
 8 take place, it won't be because the welfare mother is doing
 9 it or the welfare father, it will be some bureaucrat who is
 10 making money off the federal government who is abetting that
 11 cheating and promulgating that cheating.

12 So I can only say that based on my experience -- I spent
 13 an afternoon at a welfare office in Juneau. I know that
 14 Juneau is a little different from many other communities.

15 But I was absolutely struck almost to the point of tears with
 16 the quality of individuals who were working there on the
 17 line at something I would find most distasteful in doing.

18 They were paid less than what a beginning secretary that I
 19 have receives. If anything, they know who the cheats are,
 20 they know the repeat customers. They have them all psyched out

21 and, in fact, I would say they are quite cynical about those.
 22 But there are a lot of people who do need some succor that
 23 can be provided. For one, a lot of them don't even come in
 24 as they are afraid to. Two, the ones that do come in -- and
 25 in a situation like this where we are so callous as to call



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1 them all cheats. Why we are talking about a woman who has to
2 put her life on the line in order to get a little bit of food
3 to feed her children and herself regardless of her past
4 conduct. I think this is a little bit unconsionable for us
5 to sit here and tighten this screw down to the last possible
6 notch.

7 From my point of view these regulations are very clear.
8 I think a hearing would be very edifying and I would go along
9 with you. Let's get Mr. Califano up here. Let's have a full
10 dress rehearsal and see what happens before we capriciously
11 and arbitrarily, based on a lot of emotionalism, throw out
12 some regulations that have been in the works for two and a half
13 years. It would be different if we were talking about something
14 that is being rushed through. But this is two and a half years
15 and we are going to throw it down the drain for false
16 emotionalism and I think for a good deal of false information.

17 The Chairman. I am going to ask the staff to check
18 and see how many Senators can be available for a meeting
19 tomorrow. We will see if we can meet and enact this bill.

20 Senator Haskell. Mr. Chairman, I'm sorry that I wasn't
21 able to be here earlier, but I was presiding over a hearing
22 trying to bring out a highway bill and I understand that we
23 have had a spirited debate here today. I will look forward
24 to being further educated on the issue.

25 The Chairman. Well, when are we going to have to vote



1 on this matter in the event that we vote out a resolution
2 to disapprove those regulations?
3

4 Mr. Galvin. If you get it to the Floor on the 23rd,
5 it could be voted on the 23rd if the leadership would agree
6 to it.

7 The Chairman. Well, now, is the Senate going to be in
8 on the 23rd?

9 Senator Haskell. Yes, that is on Thursday and we are
10 in session. That is the last day before the Easter Recess.

11 Mr. Galvin. This is a privileged resolution, which
12 means that it will come up immediately when you are in
13 legislative session. Second, it has a time limit of four
14 hours. The leadership, I know, is quite disturbed with
15 controversial issues; but this has a time limit of four hours.
16 That is the maximum time that it would be debated.

17 For privileged motions there is no layover required.
18 You do not have to report it one day and lay over a day.
19 This has all been checked with the Parliamentarian. You can
20 report it and vote on it on the same day.

21 The Chairman. At this moment we do not have a quorum
22 here and therefore we could not act at this point. So I
23 feel that we should explore the possibility of a quorum to
24 act on this tomorrow. If we can get a quorum, perhaps we
25 can act upon it then. We should see if we can get a quorum.

I would like to invite Secretary Califano here for that



1 purpose.

2 Senator Gravel, did you wish recognition?

3 Senator Gravel. I did, Mr. Chairman, but since we don't
4 have a quorum we could not take up this other matter that I
5 have today.

6 The Chairman. If we can arrange matters for tomorrow
7 and if we have the prospect of a quorum, we would hope to
8 meet a 9:00 o'clock. That would give us time to hear matters
9 and then to go from there.

10 Thank you very much.

11 This hearing is adjourned.

12 (Whereupon, at 11:52 o'clock, a.m. the committee
13 adjourned, to reconvene upon the call of the Chair.)

14 - - -