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PUBLIC ASSISTANCE AMENDMENTS OF 1977

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Mr. LONG, from the Committee on Finance
submitted the following

REPORT

[To accompany H.R. 7200]

The Committee on Finance, to which was referred the bill H.R. 7200 to amend the Social Security Act to make needed improvements in the programs of supplemental security income benefits, aid to families with dependent children, child welfare services, and social services, and for other purposes, having considered the same, reports favorably thereon with an amendment and an amendment to the title and recommends that the bill as amended do pass.

I. SUMMARY

The bill (H.R. 7200), as amended by the committee, establishes a new program of adoption assistance, provides substantial relief for State and local welfare costs coupled with incentives for improved administration of welfare programs, and makes numerous improvements in the various Social Security Act programs under which assistance is provided to needy families and to needy aged, blind, and disabled persons and under which social services and child welfare services are made available.

ADOPTIONS, FOSTER CARE, CHILD WELFARE SERVICES

Subsidized adoptions.—The committee bill would establish a new subsidized adoption program with Federal matching. Under the adoption subsidy program, a State would be responsible for determining

which children in the State in foster care would be eligible for adoption assistance because of special needs which have discouraged their adoption. The State would have to find that any such child would have been receiving aid to families with dependent children (AFDC) but for the child's removal from the home of his relatives; that the child cannot be returned to that home; and that it could not reasonably expect to place the child in an adoptive home without the offering of financial assistance. In the case of any such child, the State would be able to offer adoption assistance to parents who adopt the child, so long as their income does not exceed 115 percent of the median income of a family of four in the State, adjusted to reflect family size—this is an income test used in the title XX social services program. The agency administering the program could make exceptions to the income limit where special circumstances in the family warrant adoption assistance. The amount of the adoption assistance would be agreed upon between the parents and the agency, could not exceed the foster care maintenance payment that would be paid if the child were in a foster family home, and could be readjusted by agreement of the parents and the local agency to reflect any changed circumstances. Adoption assistance payments would not be paid (1) after the child has attained the age of 18, or (2) for any period when the family income rose above the specified limits. A child with a medical disability which existed at the time of the adoption would continue to be covered under the medicaid program for treatment related to that medical disability or, at State option, for other conditions.

There would be no Federal matching for adoption subsidy agreements beginning in fiscal year 1983—though Federal matching for subsidies under agreements entered into before then would continue to be available. This would permit a review of the program by the Congress before the end of the 5-year trial period.

Where children are placed for adoption with assistance being provided under the new adoption assistance program, the nonrecurring costs involved in the adoption proceedings would be eligible for funding as child welfare services under title IV–B.

Child welfare services grants.—The child welfare services program under title IV–B of the Social Security Act provides a Federal contribution to the costs of State programs to protect and promote the welfare of children, including the provision of services to enable children to remain in their own homes, action to remove children from unsuitable homes and place them in foster care homes or institutions, and measures to place children in adoptive homes. Within the overall Federal funding available, the Federal matching share ranges from 33⅓ to 66⅔ percent depending on State per capita income. (Because of the relatively small amount of overall Federal funding which has been available, however, the effective Federal matching has been much smaller, about 7 percent nationally.) Under the committee bill, the Federal matching rate would be set at a flat 75 percent. Federal grants for child welfare services above the present $56.5 million funding level could not be used for foster care maintenance payments.

States would be required to provide statistical information on foster care and adoptions which would be published by the Secretary of HEW, and grants for child welfare services could be used to comply with these statistical reporting requirements.

Case review systems.—The committee bill would add a new section to the child welfare services part of the law specifically permitting expenditures for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children and foster parents. This would allow the Congress to designate that up to half of any new funding—over and above the current $56.5 million funding level, but within the overall $266 million now authorized—be specifically for this new section. (This earmarking would be accomplished through the appropriations process and not as a part of the authorizing statute.) State participation in this program would be optional.

In the first year for which funds are allotted to a State specifically for the new section—and only in that year—those funds could be used:

1. For conducting and completing an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, including determining the appropriateness of and necessity for the current foster placement, whether the child can or should be returned to its parents or should be freed for adoption and the services necessary to facilitate either the return of the child or the placement of the child for adoption.
2. To design and develop:
   (*a*) A statewide information system concerning children in foster care.
   (*b*) A case review system for each child in foster care under the supervision of the State.
   (*c*) A service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or a legal guardianship.

When the inventory has been completed and the systems and programs have been designed and developed, funding appropriated for the new section could be used to operate the systems and programs described in item 2. A State which already has an inventory of children in foster care and has developed the specified systems and programs could immediately use any funds which may be appropriated under the new section.

An additional element of the committee bill would authorize the Secretary of Health, Education, and Welfare to deal directly with recognized Indian governmental entities in making child welfare services grants under title IV–B.

Foster care grants.—Under present law open-ended Federal matching is provided for foster care payments under aid to families with dependent children if a child (1) meets State AFDC eligibility requirements, and (2) is removed from his home as a result of a judicial determination to the effect that continuation in the home would be contrary to the welfare of such child.

Under the committee bill a ceiling would be put on Federal matching beginning in fiscal year 1978, set at 20 percent above the 1977 level, with a 10-percent annual increase thereafter through 1982. In addition, for any year an alternative foster care grant ceiling would be provided equal to each State's share of $100 million based on population

under age 21 in each of the States. This would provide some additional room for program growth in those States which now have disproportionately small foster care programs. (In States which have disputed claims for Federal reimbursement in fiscal year 1977, the ceiling and subsequent increases in the ceiling would be computed on the basis of the State's claim for Federal reimbursement until the disputed claim is resolved. From the date that the claim is resolved, the ceiling would be based on the actual, finally determined Federal reimbursement but there would be no retroactive application of this final ceiling.) Amounts within each State's ceiling not used for foster care payments could be used for child welfare services, under the title IV–B grant program.

At the present time Federal funding of foster care maintenance payments for children is available for children placed in foster care homes and also for children placed in a "nonprofit private child care institution." The committee bill would broaden the provision to allow for Federal funding of foster care maintenance payments for children in public as well as private facilities, but only if the public institution serves no more than 25 resident children. (This provision would apply only to children placed in foster care for the first time after enactment of the bill.) Federal foster care matching would not be permitted under the committee bill for care in a facility operated primarily for the detention of children who are determined to be delinquent.

The committee bill incorporates and requires renewed emphasis on the provision of present law limiting Federal funding for foster care in institutions to those items which are comparable to what would be provided in a foster family home such as food, clothing, shelter, personal needs and the costs of providing those items and of supervising the children.

SOCIAL SERVICES PROGRAM

Additional funds for child care.—Legislation enacted last year made available $200 million in fiscal year 1977 for child care services in addition to the $2.5 billion generally available for social service grants. The additional child care funds required no State matching funds. The committee bill would increase the ceiling on Federal matching for social services to $2.7 billion on a permanent basis, beginning with fiscal year 1978. However, in fiscal year 1978 the additional $200 million would be provided for child care services on a 100-percent Federal funding basis.

Use of $200 million for employment of welfare recipients.—Present law requires States, to the extent they determine feasible, to use the added Federal funding in a way which would increase employment of welfare recipients and other low income persons in child care jobs. The law also permits States, without regard to the usual title XX requirements, to use added Federal funding under the law to make grants to child care providers to cover the cost of employing welfare recipients. These grants are limited to $4,000 a year per employee in the case of proprietary providers. For public and nonprofit providers, which are ineligible for tax credits, the limit on grants is $5,000. Grants can be made under this authority only if at least 20 percent of the children served by the child care provider have their care

paid for through the title XX program. The committee bill extends these two provisions an additional 5 years, until October 1, 1982. The committee also made these two additional modifications:

1. Existing law limits the reimbursement of child care providers who hire welfare recipients so that the reimbursement—including both the tax credit and direct reimbursement—applies only to full-time employment. The committee bill would make these provisions applicable also to part-time child care jobs.

2. In the case of private, proprietary child care centers, direct reimbursement by the welfare agency was limited under last year's legislation to 80 percent of the first $5,000 of wages paid in the expectation that the remaining amount would be covered by the 20-percent tax credit provisions. The 20-percent tax credit, however, can only be computed on the basis of nonreimbursed expenses. The committee modified this rule as it applies to the employment of welfare recipients in child care employment to provide comparable treatment of proprietary and nonprofit providers.

Welfare recipient tax credit.—Present law grants a tax credit equal to 20 percent of wages to child care employers who hire AFDC recipients to work in child care facilities. The tax credit is limited to a maximum of $1,000 per employee per year in the case of child care jobs. The provision expired on October 1, 1977. The committee bill would extend the credit for 5 years, to October 1, 1982.

Staffing standards.—Certain minimum staffing standards are required under the social services program—title XX of the Social Security Act—for child care funded under the act. However, the applicability of those standards had been postponed until October 1, 1977, to allow time for the completion of a study on staffing by the Department of HEW. During the period of suspension, State law requirements for child care have to be met, and staffing standards may not be lowered from the September 1975 levels.

Legislation enacted earlier this year (Public Law 95–59) has deferred until April 1, 1978, the date by which the Department must make its report on the appropriateness of the child care staffing standards in permanent law. The Department had requested this deferral in order to permit it to take into account the results of certain studies which would not have been completed in time to be used under the prior deadline of July 1, 1977.

The committee bill continues until October 1, 1978, the suspension of the staffing standards for children age 6 weeks to 6 years but deletes the requirement preventing States from lowering their staffing standards below the September 1975 standards.

Under present law, State welfare agencies are permitted to waive the Federal staffing requirements in the case of child care centers and group day care homes which meet State standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served—or, in the case of a center, there are no more than five such children—provided that it is infeasible to place the children in a facility which does meet the Federal requirements. In addition, in counting the number of children who may be cared for in a family day care home, the family day care mother's own children are not counted unless they are under age 6.

The House bill would extend these temporary provisions for an additional year, until October 1, 1978. The committee bill would instead extend these provisions for 5 years, until October 1, 1982.

Addicts and alcoholics.—The 94th Congress enacted a temporary amendment to title XX, due to expire September 30, 1977, to require that special confidentiality requirements of the Comprehensive Alcohol Abuse Act be observed with regard to addicts and alcoholics, clarify that the entire rehabilitative process must be considered in determining whether medical services provided to addicts and alcoholics can be funded as an integral part of a State social services program, and provide for funding of a 7-day detoxification period even though social services funding is generally not available for persons in institutions. The committee bill makes these provisions permanent.

Social services in the territories.—Puerto Rico, Guam, and the Virgin Islands do not participate in the title XX social services program on the same basis as the States. Instead, they may receive an allotment for social services only from the amount that the States and the District of Columbia certify, after the beginning of the program year, that they will not use out of their share of the $2.5 billion in Federal funding under the title XX program. The law specifies that in no case can the allotment exceed $15 million for Puerto Rico and $500,000 each for Guam and the Virgin Islands.

The committee bill includes a provision in the House bill to require each State, prior to the beginning of the fiscal year, to certify to the Secretary whether it will have funds in excess of its title XX program needs and the amount of the excess. If a State certified that its allotment exceeded its needs, then the amount of the allotment would be reduced by the amount of the excess. Under the provision the State could make a subsequent determination, after the beginning of the fiscal year, if it later determined that the amount originally certified was in excess of the amount needed. Amounts certified as in excess of State needs would be available for allotment to Puerto Rico, Guam, and the Virgin Islands, up to the amount of the limitations specified in existing law.

FISCAL RELIEF

Fiscal relief for State and local welfare costs.—The committee bill makes available up to $1 billion in additional Federal funding of welfare costs as a means of providing fiscal relief to State and local governments. This one-time provision would call for a payment to be made in two installments. The first installment would be payable as of October 1, 1977, and would total $500 million with each State receiving a share of that total on the basis of a two-part formula. Half of the fiscal relief funds would be distributed to each State in proportion to its share of total expenditures under the program of aid to families with dependent children (AFDC) for December 1976, and half would be distributed under the general revenue sharing formula.

The second installment would be payable as of October 1, 1978. To receive its full share of the October 1, 1978, payment, however, each State would have to demonstrate that it had reduced its payment error rate in the AFDC program to 4 percent or less as of the January–June 1978 quality control sampling period. States which had not reached a 4-percent-or-less payment error rate by that period could still receive some payment depending on the degree of their progress toward

that rate since a base period. At State option, the base period could be either the July–December 1974 or January–June 1975 quality control sampling period. If, for example, a State had a 10-percent error rate in the base period and had reduced that error rate to 6 percent as of January–June 1978, the State would receive a payment on October 1, 1978 equal to two-thirds of the fiscal relief payment it had received on October 1, 1977—since it had progressed two-thirds of the way toward the 4-percent goal.

In some States, local units of government are responsible for meeting part of the costs of the AFDC program. The fiscal relief payments to those States under this provision would have to be passed through to local governments. However, States would not be required to pass through an amount in excess of 90 percent of the amount of the welfare costs for which the local government was otherwise responsible.

AID TO FAMILIES WITH DEPENDENT CHILDREN AND CHILD SUPPORT ENFORCEMENT

General provisions

Quality control and incentives to reduce errors.—The committee amendment would establish a modified version of the current AFDC quality control program as a requirement of law to determine the level of case and dollar error rates with respect to eligibility, overpayment, and underpayment of aid paid under the approved State plan and case error rate with respect to incorrect denials and terminations of aid. Instead of applying sanctions on the States, the dollar error rates would be used as the basis for a system of incentives, which would give the States motivation for expanding their quality control efforts and improving program administration. Under the amendment, States which have dollar error rates of, or reduce their dollar error rates to, less than 4 percent but not more than 3.5 percent of the total expenditures would receive 10 percent of the Federal share of the money saved, as compared with the Federal costs at a 4-percent payment error rate. This percentage would increase proportionately as shown in the following table:

If the error rate is:	The State would retain this percent of the Federal savings
At least 3.5 percent but less than 4 percent	10
At least 3 percent but less than 3.5 percent	20
At least 2.5 percent but less than 3 percent	30
At least 2 percent but less than 2.5 percent	40
Less than 2 percent	50

The Secretary would under regulations require the States, beginning April 1, 1978, to establish and administer a special performance evaluation and corrective action system that would, using data already available, identify operating units below the State level with excessive error rates.

There would have to be public notice of error rates (including an analysis of causes and sources of errors), and of actions taken or planned to be taken to correct system weaknesses.

Findings of the quality control program would have to be reported by the States on a timely basis to the Inspector General of HEW and to the program operating component. Federal reviewers would review a subsample of the State sample. They would also examine cases in the State's review of the previous 6-month period to determine whether appropriate corrective action was taken. All analyses and reports of case error rates would have to include negative case actions and cases involving underpayments as well as overpayments and payments to ineligibles.

Under the amendment the Secretary would be required to provide technical assistance to State administering units to assist them in planning and operating their quality control programs, and in taking follow-up corrective actions as necessary. The Inspector General would closely monitor the operation and findings made under the quality control program, the incidence and extent of fraud and abuse in the State AFDC programs, and as appropriate, recommend improvements in (or alternatives to) the methods used. The medicaid quality control program would also be monitored by the Inspector General.

At least twice a year, to coincide with the 6-month quality control review periods, the Secretary would be required to submit a report to the Congress which would include a detailed analysis of the quality control samples, errors, corrective actions taken, and a description of kinds and classes of errors from any prior period which have not been corrected.

Recipient identification cards.—The committee bill provides Federal matching of 75 percent for costs incurred by a State in issuing photo identification cards to AFDC recipients. At present, States which use such cards as part of their administrative procedures are entitled to matching of 50 percent. States would be allowed to make the use of a photo identification card a condition of AFDC eligibility.

Matching for antifraud activities.—Under present law Federal matching for AFDC administrative costs, including antifraud activities, is limited to 50 percent. The committee bill increases the matching rate to 75 percent for State and local antifraud activities.

Determination of AFDC benefits for a child in certain living arrangements.—In the case of an AFDC child living with a relative (1) who is not legally responsible for his support, or (2) who is legally responsible but is not eligible for AFDC because he is receiving support from another person or aid under another program, a State would be allowed under the committee bill to pay an amount based on the full family size but reduced on a prorata basis to take account of the presence of ineligible family members.

Safeguarding information.—Present law provides in part that State plans under title IV–A (AFDC) must include safeguards which prevent disclosure concerning AFDC applicants or recipients which identifies them by name or address to any committee or a legislative body. HEW regulations include Federal, State, or local committees or legislative bodies under this provision.

The committee bill will modify this section of the act to clarify that any governmental agency authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. It would also exclude the

Committee on Finance and the Committee on Ways and Means from the prohibition.

AFDC management information system.—The committee bill provides incentives for the States to develop and operate computerized management information systems for their aid to families with dependent children (AFDC) programs.

Under the committee bill, the rate of Federal matching for the costs of computerized management information systems would be increased from the present rate of 50 percent to 90 percent for the costs of developing and implementing the systems and to 75 percent for the costs of operating them.

The Department of Health, Education, and Welfare would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. (Continuing review of the State systems would also be required.) To qualify for HEW approval the system would have to have at least the following characteristics:

1. Ability to provide data concerning all AFDC eligibility factors;
2. Capacity for verification of factors with other agencies;
3. Capability for notifying child support, food stamp and medicaid programs of changes in AFDC eligibility or benefit amount; and
4. Security against unauthorized access to or use of the data in the system.

In approving systems, the Department would have to assure sufficient compatibility among the systems of different States to permit periodic screening to determine whether an individual was drawing benefits from more than one jurisdiction. (The increased matching would be applicable to existing systems if they meet the criteria for approval of new systems.)

Access to wage information for AFDC verification.—The committee bill would improve the capacity of States to acquire accurate wage data by providing authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies. Such information would be obtained by a search of wage records conducted by the Social Security Administration or employment security agencies to identify the fact and amount of earnings and the identity of the employer in the case of individuals who were receiving AFDC at the time the earnings were received. The Secretary of Health, Education, and Welfare would be authorized to establish necessary safeguards against improper disclosure of the information. Beginning October 1979, the States would be required to request and use the earnings information made available to them under the committee amendment.

Protective and vendor payments.—Under existing law States are allowed to make protective or vendor payments, instead of direct cash payments, for recipients of AFDC. The number of recipients for whom payments may be made in any State may not exceed 10 percent of the number of AFDC recipients, and the payments may be made only under specified conditions, including a determination by the agency that the child's relative is unable to manage funds in the child's interest.

The committee bill contains several provisions relating to protective and vendor payments. First, in cases in which the State agency made a determination of inability to manage funds, payments could be made in the form of joint checks as a kind of vendor payment. Second, the limit on the number of recipients with respect to whom a State could make such protective or vendor payments would be increased to 20 percent. Third, in addition to the protective and vendor payments which the State or local agency could make subject to the new 20-percent limitation, States would be allowed to make payments to cover the cost of utility services or living accommodations in the form of checks drawn jointly to the order of the recipient and the person furnishing the services or accommodations. Such joint checks would have to be requested by the recipient in writing, and the request would be effective until revoked by the recipient. The amount of the monthly payment which could be made in the form of joint checks would be limited to 50 percent. There would be no limit on the number of recipients with respect to whom joint checks to pay for housing or utilities could be written. This third provision for joint checks would be limited to 2 years, from October 1, 1977 to October 1, 1979.

In addition to authorizing increased numbers and forms of protective and vendor payments, the committee bill would provide that Federal matching funds could not be denied to any State for the period between January 1, 1968 and April 1, 1977 (1) because the State exceeded the 10-percent limitation on these payments; (2) because it provided assistance in the form of joint checks; or (3) because it did not comply with other specified conditions.

Child support enforcement program

Federal matching of child support costs for nonwelfare families.—Present law requires each State to have a program of child support collection and paternity establishment services for both AFDC and non-AFDC families. The statute provides Federal matching of 75 percent for services to AFDC families; matching for services to non-AFDC families was originally provided for 1 year, but has been twice extended, the most recent extension being through September 30, 1978. The committee bill continues Federal matching for services to non-AFDC families on a permanent basis.

Procedural changes related to Federal matching for child support.—The committee bill includes two changes in the procedures under which matching funds are provided to the States for child support program costs. One change would prohibit advance payment to the State of the Federal share of administrative expenses for a calendar quarter unless it has submitted a full and complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. A second provision would allow HEW to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

Collection of child support for AFDC families.—Under present law, amounts collected which represent the child support obligation for the current month are generally retained by the State to the extent necessary to reimburse it for the current AFDC payment. If the amount of the child support collection made by the State is in excess

of the court-ordered monthly support payment for the family, the amount of the excess is retained by the State to reimburse it for assistance payments previously made to the family. Present law also allows States to continue to collect support payments from an absent parent for up to 3 months after AFDC payments have been terminated, and HEW regulations allow the States to continue to retain payments in excess of the regular monthly support order to reimburse them for past assistance payments. Because of questions raised about the interpretation of the statute, the committee bill includes a clarifying amendment to uphold the HEW interpretation.

Federal matching for child support duties performed by court personnel.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. The law specifically provides for entering into financial arrangements with courts and officials. However, HEW regulations do not allow States to claim Federal matching for certain activities now being performed under these arrangements. The committee bill would authorize matching for these administrative expenses of the IV–D program. Matching would cover compensation of judges and other support and administrative personnel of the courts who perform IV–D functions, but only for those functions specifically identifiable as IV–D functions. Matching would be paid by the State agency directly to the courts if the State so provided. Current levels of spending in the State for these newly matched activities would have to be maintained. No matching would be available for expenditures incurred before January 1, 1978.

Provisions related to employment

Work incentive program.—Under the work incentive (WIN) program, recipients of AFDC are required to register for manpower training and employment services, unless they are excluded under provisions of the law. Individuals who participate in the WIN program also receive supportive services, including child care, if these services are necessary to enable them to participate. Under the committee bill, AFDC recipients who are not excluded from registration by law would be required, as a condition of continuing eligibility for AFDC, to register for and participate in employment search activities, as a part of the WIN program. These employment search activities are intended to be directed by professional manpower staff and supported by necessary transportation services, and would be arranged to the maximum extent possible while children are in school or when other family demands are at a low level.

The amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment and, for a period thereafter, as are necessary and reasonable to enable him to retain employment. In addition, it would allow States to match the Federal share for social and supportive services with in-kind goods and services, instead of being required to make only a cash contribution.

The amendment would provide for locating manpower and supportive services together to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be

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terminated, and authorize the Secretaries of Labor and HEW to establish the period of time during which an individual will continue to be ineligible for assistance in the case of a refusal without good cause to participate in a WIN program. The amendment also clarifies the treatment of earned income derived from public service employment.

Incentive to report earnings.—Quality control reviews show that a large percentage of the payment errors made in the AFDC program are related to earned income and the failure of the recipient to report the correct amount of any changes in earnings. A few States require that all income be reported on a monthly basis, as a condition of eligibility. Most States do not do this. When they learn that a recipient had unreported earned income in prior months, they must under present law give him the benefit of all the earned income disregards provided in law in calculating the amount of the overpayment. Thus if a recipient is negligent in reporting his earnings even over a long period of time, there is no penalty involved.

The committee bill provides an incentive to report income by specifying that there would be no disregard of any earned income which the recipient has not reported to the State agency.

Demonstration projects.—The committee bill broadens and makes more explicit the provision of present law relating to State demonstration programs. The objectives of the new demonstration authority would be to permit States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of persons who are on assistance—or who otherwise would be on assistance. These objectives would be achieved through experiments designed to make employment more attractive for welfare recipients.

This provision is identical to an amendment approved by the Senate in 1973. It would limit States to not more than three demonstration projects. One of the projects could be statewide, and none of the projects could last for more than 2 years. The amendment would permit States to waive the requirements of the AFDC program relating to (1) statewideness; (2) administration by a single State agency; (3) the earned income disregard; and (4) the work incentive program. The State could waive any or all of these requirements on its own initiative unless and until the Secretary disapproved the waiver as inconsistent with the purposes of the demonstration authority and the AFDC law. If the waiver was disapproved by the Secretary, the demonstration project would terminate by the end of the month following the month in which it was disapproved.

The provision would allow States to use welfare funds to pay part of the cost of public service employment, which would have to meet specified conditions. Participation in the demonstration projects would be voluntary. Costs of the projects would be eligible for the same matching as other AFDC costs, with the limitation that the amount matchable with respect to any participant in the project could not exceed the amount which would otherwise be payable to him under AFDC. Thus, it is estimated that the projects would not result in any increased Federal expenditures.

Community work and training programs.—Prior to the enactment of the work incentive (WIN) program as part of the 1967 social

security amendments, the Federal AFDC statute permitted Federal matching of AFDC payments made to recipients participating in a community work and training program. Since the enactment of the WIN program, however, the Department of Health, Education, and Welfare has taken the position that the Federal Government will not share in AFDC payments to recipients who are required by State law to participate in an employment program, unless the program either is part of the WIN program or is administered under the Economic Opportunity Act. The committee bill includes a provision, which has been approved twice by the Senate, to reenact the community work and training provisions so that States which elect to have such programs could do so under the standards and safeguards provided by the legislation. The legislation would be modified to exclude from the requirement to participate the same categories of recipients as are excluded from the WIN registration requirement, as well as individuals who are already participating in WIN. In addition, protective payments for children whose relatives fail to comply with the community work and training requirements would be provided.

Earned income disregard.—Under present law States are required, in determining need for aid to families with dependent children, to disregard the first $30 earned monthly by an adult, plus one-third of additional earnings. Costs related to work—such as transportation, child care, uniforms, and other items—are also deducted from earnings in calculating the amount of the welfare benefit.

The committee bill requires States to disregard the first $60 earned monthly by an individual working full time—$30 in the case of an individual working part-time—plus one-third of the next $300 earned plus one-fifth of amounts earned above this. Child care expenses, subject to limitations prescribed by the Secretary, would be deducted before computing an individual's earned income. Other work expenses could not be deducted.

SUPPLEMENTAL SECURITY INCOME (SSI) PROVISIONS

Definition of child.—The supplemental security income program now provides that an individual who is aged 18–21 will have his income computed under the rules applicable to adults if he is not in school. But, if he is in school, he will be considered to be a child and thus have his parent's income considered in determining his benefit eligibility. In many instances, this rule serves as a disincentive for disabled children at this age level to continue in school. The committee bill includes a provision of the House bill under which the parent's income would cease to be attributed to a disabled child over age 17 without regard to whether or not he is in school.

Treatment of in-kind income.—Under existing law, benefit eligibility for supplemental security income is reduced by the amount of any other income—unless specifically excluded by statute—which is available to the recipient. This includes income which is in kind rather than in cash. Where an individual receives support and maintenance in kind as a result of living in another person's household, however, present law provides that the SSI benefit amount will be reduced by one-third rather than by the actual computed value of the in-kind support. The existing rules concerning the treatment of in-kind income have proven extremely difficult to administer. H.R. 7200, as passed by the

House, would have specifically excluded from income for SSI purposes two categories of in-kind income: Gifts and inheritances, to the extent permitted in HEW regulations. The committee bill would substitute for present law and the House provision a general rule of counting as income only cash income which is available for the support and maintenance of the SSI beneficiary. However, in any case where the beneficiary receives regular contributions in kind toward his shelter or food needs, the amount of his maximum SSI benefit would be reduced by one-third unless he can establish that the actual value of those in-kind contributions are of lesser value. This would maintain the basic purpose of existing law to take into account substantial in-kind income while generally avoiding the need to compute the exact value of that income.

Disaster relief.—In the 94th Congress, two provisions were adopted on a temporary basis affecting the eligibility for supplemental security income of persons affected by natural disasters. Under one of these provisions, payments to SSI recipients under the Disaster Relief Act or other Federal statute related to a Presidentially declared disaster would not serve to reduce the amount payable under the SSI program. A second provision exempted persons residing in an area affected by a disaster from the provision under which SSI benefits are reduced by one-third in the case of an individual living in the household of another. This exemption applies only if the SSI recipient moved from his own household into the household of another as a result of the disaster and only for a period of no more than 18 months. These two provisions were made applicable only in the case of disasters occurring during the last half of 1976.

The committee bill makes the above two provisions applicable in the case of all Presidentially declared disasters occurring after May 31, 1976. In addition, the bill would provide that no reduction in SSI payments may be made because of interest paid on disaster relief payments for a period of 9 months after the funds are received and that disaster relief payments—and any interest on them—would not be considered as assets for purposes of SSI eligibility during the same 9 months. (The provision allows the Secretary of Health, Education, and Welfare to grant extensions of the 9-month limit.)

Mandatory State supplementation.—Present law requires States to have State mandatory supplementation programs to assure that all persons who received assistance under the former programs of aid to the aged, blind, and disabled in December 1973 receive no less income under SSI than they received under the previous programs. This provision has resulted in unforeseen complexities, both for the Social Security Administration and for the States. First, although there are only about 100,000 actual recipients of mandatory State supplements, records of the mandatory supplement levels for some 2.2 million individuals who were converted from State rolls must continue to be maintained. Second, there has been confusion as to whether the State or Federal definition of income should be used in determining what constitutes countable income in administering mandatory supplementation. Third, although the Senate report on the mandatory supplementation provision indicates State responsibility for determining when changes in circumstances occur and for computing the change

in special need or circumstance, the Department's policy in this respect is not clear.

The committee bill provides for the elimination of the mandatory supplementation requirement for individuals who no longer benefit from the provision for various reasons. In addition, the bill would: (1) In the case of federally administered mandatory State supplementation, require the use of the Federal definition of income; (2) in the case of State administered mandatory supplementation, permit States to use the definition of income which was used under the former State welfare plan; and (3) authorize States to recertify a lower mandatory supplement level when they determine that there are changed circumstances which would have resulted in a reduction in the welfare grant under the former State program, thus giving States full responsibility for these determinations.

SSI accounting period.—Under the SSI statute, the determination of an individual's eligibility and amount of entitlement is computed on a quarterly basis. The House bill would require monthly determination. The committee bill requires the Social Security Administration to undertake experiments with various accounting periods—including retrospective accounting periods—and with various reporting methodologies and to report to the Congress on their effects.

Reporting of changes in circumstances.—Present law requires SSI recipients to report when they have changes in circumstances or income which could affect their SSI payment. However, there is no requirement for regular reporting and SSA has found that many recipients fail to report changes in a timely fashion.

The committee bill requires the Secretary of HEW to test on a pilot basis a procedure by which each individual receiving Federal SSI payments or federally administered State supplementary payments would make an annual report stating whether or not there had been any changes in his circumstances affecting eligibility or the amount of payments. This specific pilot test of annual reporting—timed to occur about 6 months after a full annual redetermination—would be in addition to any experiments conducted under the other provision of the committee bill which requires the Social Security Administration to undertake experiments with various accounting periods and various reporting methodologies.

Coordination of SSI/social security entitlement.—The committee bill includes an amendment designed to prevent certain windfalls which now occur when an individual applies for both social security and SSI benefits, is eligible for both, but does not receive his social security award promptly because of processing or similar delays. Under the amendment, payments under the two programs will be coordinated. A part of the SSI payment made pending completion of the social security award will be treated as an advance against the individual's social security entitlement. When that entitlement is established, proper accounting adjustments will be made to assure that the correct amounts are paid by the general fund and the trust funds.

Increase in $25 payment to persons in institutions.—Present law provides for a standard $25 monthly payment to persons in medical facilities receiving medicaid reimbursement in their behalf. The House

bill provided for the adjustment of that amount on an annual basis to reflect changes in the cost of living. The committee bill provides a one-time increase of $5 a month to individuals in medical facilities. The provision would be effective as of the next general cost-of-living increase in July 1978. It would increase benefits for approximately 200,000 SSI recipients.

Employment of SSI recipients for information and referral.—The House bill includes a provision directing the Secretary of Health, Education, and Welfare to provide for the coordination of SSI administration with the administration of the medicaid and food stamp programs and authorizing Federal assumption of any State administrative costs involved in such coordination. The committee bill provides instead authority for the Department of Health, Education, and Welfare to pay for the employment by the States of SSI recipients who would be trained to serve in social security offices to provide information on other programs and community resources to SSI claimants. (Some of those employed under this program might serve in local welfare offices to provide assistance to individuals with SSI problems in areas where local welfare offices are more conveniently located than social security offices.) The committee bill authorizes funding for these positions at a level of 1,000 man-years at $5,000 per man-year.

Addicts and alcoholics.—An SSI recipient who is an addict or alcoholic (1) must be undergoing appropriate treatment (if it is available), and (2) must have his payments made to a third party interested in his welfare. The committee bill, like the House bill, would amend present law to allow the direct payment of SSI benefits to addicts or alcoholics if the attending physician at the institution where the individual is undergoing treatment certifies that a direct payment would have significant therapeutic value for the individual and that there would be little risk of misuse of the funds involved.

Burial fund.—The SSI statute provides for individuals to retain liquid assets of up to $1,500, or $2,250 in the case of a couple. In addition, there are excluded life insurance policies up to a face value of $1,500. In theory this allows recipients to maintain a small insurance policy which can be used to meet the eventual costs of their funeral expenses and, at the same time, to maintain a small cash reserve to see them through any emergency situation. In practice, many aged persons, instead of buying an insurance policy against death and burial expenses, have elected to set aside assets (e.g. funds in a bank account) for this purpose.

The committee bill would make the $1,500 insurance policy exclusion alternatively available with respect to assets set aside for burial purposes. The burial assets would have to be designated as such by the beneficiary with the understanding that any amount withdrawn prior to death of the recipient would be treated as unearned income and serve to reduce his SSI payments. Since, under existing law, applicants can accomplish the same exclusion by purchasing a specific insurance policy, this change does not expand eligibility and should, therefore, have a negligible impact on program costs.

Emergency aid program for aged, blind, and disabled.—The committee bill provides Federal matching for a program of emergency assistance to SSI recipients. The program would be similar in objective to the existing program of emergency assistance for children under

title IV of the Social Security Act and would be administered by the same agencies responsible for State social services program. Funding, however, would be provided under title XVI. Federal matching would be at a 50-percent rate. The program would operate as an authorization with the funding limited to $10 million for fiscal year 1979 and to such amounts as may be provided for in annual appropriations acts in subsequent years.

Liability for Federal errors in administering State programs.—The committee bill provides a transitional statutory guideline for determining the extent of Federal liability for incorrect State supplemental payments which are federally administered. Under this provision, the Federal Government would assume the cost of any federally administered State supplementary benefits which are erroneous to the extent that they exceed 4 percent of the total State supplemental payments made in the State. This provision would apply to fiscal year 1979. Starting with fiscal year 1980, the committee anticipates that the quality of SSI administration will have improved sufficiently to eliminate any further need for Federal assumption of liability.

Liability for incorrect medicaid costs.—Under present law, eligibility of aged, blind, and disabled people for medicaid is usually related to their eligibility for SSI. In many States, the Social Security Administration determines eligibility for medicaid in the case of SSI recipients. The medicaid program is, however, a State responsibility and States are liable under present law for the costs of incorrect payments even where the cause of error is an incorrect eligibility finding by the Federal agency. In practice, the Department of Health, Education, and Welfare has not required States to repay the Federal share of incorrect medicaid payments if the error arose from an incorrect Federal action. The committee bill would give statutory authorization for this existing practice.

Earnings of SSI recipients in sheltered workshops.—Under current interpretations, income received by an SSI recipient who is in a sheltered workshop as part of a rehabilitation program is not considered to be wages and is therefore treated as unearned income. As a result, all remuneration in excess of $20 a month reduces the SSI benefit on a dollar-for-dollar basis. In contrast, income of a recipient in a sheltered workshop who is not in a rehabilitation program is treated as earned income, and the individual is entitled to the earned income disregards—$65 plus one-half of additional earnings. The committee bill includes a provision which would in all cases treat as earned income any income received by SSI recipients as remuneration for participation in sheltered workshop activities whether or not as a part of an active rehabilitation program.

SSI reports by the Secretary of Health, Education, and Welfare.—The committee bill would require the Secretary of Health, Education, and Welfare to report to the Congress by April 1, 1978, on two matters which had been identified in a study by the committee's staff as needing to be addressed by the Department in a comprehensive way. First, the staff study found that SSI manpower needs have been poorly assessed with the result that the quality of SSI administration has been seriously below congressional expectations. Second, it found that HEW policy formulation procedures and practices were such that

policies had been adopted which were at variance with law and expressed congressional intent in a number of areas. The committee bill requires the Secretary to report on:

1. The estimated manpower needs of the Social Security Administration for fiscal years 1979, 1980, and 1981.

2. Plans and recommendations for restoring the statutory integrity of the SSI program, based on a review of SSI policies and of statute and legislative history, with particular reference to the policy issues raised in the staff report.

MISCELLANEOUS PUBLIC ASSISTANCE PROVISIONS

Fraud.—The committee bill would require the Inspector General to compile data relating to fraud in the AFDC and SSI programs to show the number of cases awaiting or under active investigation (and the amounts of money involved), the number of cases settled by administrative action, the number of cases referred for possible criminal prosecution, and the number of cases adjudicated—including the decision and any penalties imposed.

Treatment of territories under social security assistance programs.—Under present law, 50 percent Federal matching is available for assistance to the aged, blind, and disabled, and to families with dependent children in Puerto Rico, Guam, and the Virgin Islands, subject to overall dollar limitations. The committee bill would increase the Federal matching percentage from 50 percent to 75 percent while tripling the dollar limitations. This will permit the territories to double the size of their assistance programs with no increase in non-Federal matching. The amounts for each territory are shown in the table below. The provision would be effective as of April 1, 1978.

FEDERAL FUNDS FOR ASSISTANCE PROGRAMS

	Present law (50 percent Federal matching)	Committee bill (75 percent Federal matching)
Puerto Rico	$24,000,000	$72,000,000
Virgin Islands	800,000	2,400,000
Guam	1,100,000	3,300,000

In addition, the committee bill would treat the Northern Marianas in a manner comparable with Puerto Rico, the Virgin Islands, and Guam. Specifically, the committee bill would establish in the Northern Marianas the programs of aid to the aged, blind, and disabled, AFDC and medicaid subject to the same matching and a comparable overall limit on Federal funding ($570,000) as is provided for in the case of other territories. The supplemental security income (SSI) program would not apply in the Northern Marianas as is also the case in the other territories.

Public assistance payments to aliens.—Under existing law, lawfully admitted aliens become subject to deportation if they become public charges within 5 years after their entry into the United States unless

the cause of their becoming public charges arose subsequent to their entry. Despite this provision, GAO studies indicate that many legal aliens are receiving public assistance payments and yet are not considered to be public charges. This is the result of court interpretations that dependency on public assistance does not constitute "being a public charge." The committee bill would amend the Social Security Act to rectify this situation by providing that receipt of any type of public assistance would, in the future, constitute being a public charge for purposes of the Immigration and Nationality Act.

MEDICARE PROVISION

Study of coverage of epilepsy and similar conditions—The committee amendment authorizes the Department of Health, Education, and Welfare to conduct a study of the problems faced by people with epilepsy or similarly incapacitating conditions in obtaining adequate health insurance coverage. The study will look into the availability of health insurance and other means of coverage of health care costs. In the study the Secretary is to evaluate the advantages and disadvantages of covering such conditions under the medicare program.

II. GENERAL DISCUSSION OF THE BILL

A. Adoption Assistance, Foster Care, and Child Welfare

GENERAL APPROACH

Present law.—The aid to families with dependent children (AFDC) program is primarily designed to provide aid to needy children who are living in their own home—that is a home maintained by a parent or close relative—but who have been deprived of ordinary parental support by reason of the death, incapacity, or absence from the home of at least one parent. (States at their option may also provide aid under this program to families in which the deprivation of parental support arises from the father's unemployment.)

Since 1961, the AFDC program has also permitted Federal matching for aid provided to children who are not in their own home, but are in foster care. Such assistance is matched by the Federal Government only in the case of children who would be eligible for AFDC had they remained in their own home, but who have been removed from the home as a result of judicial determination and placed in foster care. Aid is available under this special AFDC foster care provision for such children in foster family homes and also in nonprofit private foster care institutions. As of March 1977, 113,580 children were being assisted through the AFDC foster care program. The annual cost of this part of the AFDC program was $338 million in fiscal year 1976, of which $177 million represented the Federal share.

While the availability of Federal funding under the AFDC program for foster care has significantly enhanced the ability of the States to provide for the care of children who must be removed from their own homes, concern has been expressed over the need for increased efforts to move children out of foster care and into more permanent arrangements by reuniting them with their own families when this is feasible, or by placing them in adoptive homes.

Under present law, a child who is adopted ceases to be eligible for AFDC foster care payments—unless the adoptive family is itself an AFDC eligible family. Loss of AFDC eligibility by the child also entails a loss of medicaid eligibility. In theory, this result is entirely appropriate and consistent with the traditional concept of adoption. The child whose welfare eligibility has been tied to his membership in an AFDC family becomes, through adoption, completely severed from a relationship to that family and is incorporated fully into the new adopting family. His eligibility for any type of benefits should, therefore, reflect his status as a member of that family rather than his former status as a member of another family. In practice, however, some children are difficult to place in adoptive homes, and are likely to remain permanently in foster care unless sufficient aid is made available to permit families of low or moderate income to undertake the additional expenses involved in adopting such children. Most States now have programs which provide some type of subsidy for the adoption of hard-to-place children. These State programs, however, have been operated for the most part with State funding.

The only Federal funds available to the States to assist in funding adoption subsidy programs have been through the child welfare program—title IV–B of the Social Security Act. However, although the Congress has authorized an appropriation of $266 million a year for child welfare services, broadly defined, the appropriation for the program has never exceeded $56.5 million. State matching requirements under the program have not been meaningful since the States have been spending each year amounts greatly in excess of the requirement. In fiscal year 1976 the States reported about $700 million as being spent for child welfare services. Seventy-two percent of this amount was spent on foster care maintenance payments for children who were not eligible for Federal matching payments under the AFDC foster care program.

House bill.—The House bill would continue the open-ended Federal matching for foster care under AFDC, but would (1) broaden it to include cases where children are removed from the home at the request of the parent even without judicial determination, and (2) for the first time allow Federal matching for foster care in public institutions or group homes caring for 25 or fewer children. States would be required to include adoption subsidies as part of their AFDC foster care program. Federal matching would be available for subsidies to adopting parents of hard to place children if (1) the child has been in foster care at least 6 months; and (2) the amount of the subsidy does not exceed the amount paid for foster care in a foster care home. Federal matching would continue for 1 year or for the length of time the child was in AFDC foster care, whichever is longer. Additional amounts could be paid for costs related to medical problems of the child which existed prior to adoption. These could be paid up to the time the child reaches majority. There would be no income limitation for adopting parents.

The House bill would also convert the child welfare services program from an appropriation authorization to an entitlement program at a level of $226 million annually beginning in fiscal year 1978. No State matching funds would be required, but State maintenance of effort

would be required—that is, the additional funds could not be used to replace State dollars. The new Federal funds could not be used for foster care, for employment-related day care, for the purchase of land or equipment, for construction, nor for generally available education services. Under the House bill, as a condition for receiving the child welfare services funds, a number of specifically required procedures and systems changes would be specified; these would be designed to: (1) protect parents and children; and (2) emphasize the desirability of family reunification or adoption as alternatives to continued placement in foster care.

Committee bill.—The committee believes that the authority in the law now to provide assistance to children in foster care has been of significant benefit to children over the years since it was originally enacted in 1961. However, the committee agrees that it would be appropriate and desirable at this time to modify the law in a way which will deemphasize the use of foster care and encourage greater efforts to place children in permanent homes. For this reason, the committee has made certain changes in the foster care provisions and has also adopted a new program of federally aided adoption assistance for children who would otherwise continue in foster care receiving benefits under the AFDC foster care provisions.

Under the committee bill, a distinction would be made for funding purposes between adoption subsidies and foster care payments to children eligible for AFDC. A ceiling would be placed on foster care payments beginning in fiscal year 1978 at 20 percent above the fiscal year 1977 expenditure level for foster care, with a 10-percent annual increase allowed through fiscal year 1982. (A higher ceiling would be provided for States with disproportionately small foster care programs in fiscal year 1977.) Federal matching would not be broadened to include cases without judicial determination, but would include care in public institutions caring for 25 or fewer children. The new subsidized adoption program would be open ended, but there would be no Federal matching for new adoption subsidy agreements beginning in fiscal year 1983 so that the program could be reviewed by the Congress before the end of the trial period.

A new section would be added to the child welfare services program specifically permitting expenditures for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children and foster parents. The provision would allow the Congress to designate that up to half of any new funding—over and above the current $56.5 million funding level, but within the overall $266 million now authorized—be specifically for this new section. This earmarking would be accomplished through the appropriations process and not as a part of the authorizing statute. State participation in this program would be optional.

The Federal matching rate for the child welfare services program would be set at a flat 75 percent—unlike the range of from 33⅓ to 66⅔ percent under present law. In addition, any additional funds appropriated for child welfare services—above the present funding level of $56.5 million—could not be used for foster care maintenance payments.

ADOPTION ASSISTANCE

(Section 101 of the Bill)

Present law.—Under present law there is no Federal matching for adoption subsidies under the program of aid to families with dependent children. However, Federal funds for child welfare services may, among other things, be used for adoption subsidies. The following 43 States and jurisdictions now have adoption subsidy programs: [1]

Alaska	Maine	Oklahoma
Arizona	Maryland	Oregon
California	Massachusetts	Pennsylvania
Colorado	Michigan	Rhode Island
Connecticut	Minnesota	South Carolina
Delaware	Missouri	South Dakota
District of Columbia	Montana	Tennessee
Florida	Nebraska	Texas
Georgia	Nevada	Utah
Idaho	New Jersey	Vermont
Illinois	New Mexico	Virginia
Indiana	New York	Washington
Iowa	North Carolina	Wisconsin
Kansas	North Dakota	
Kentucky	Ohio	

[1] Source: American Public Welfare Association.

Although State adoption subsidy programs have in most cases been in existence for a relatively brief period, State officials involved in these programs are convinced of their value in finding permanent homes for hard-to-place children. The committee heard extensive testimony on the importance of adoption subsidies in ending the current practice of leaving such children in foster care indefinitely.

Committee bill.—The committee bill would establish a new adoption assistance program (under a new part E of title IV of the Social Security Act) with Federal matching on the same basis as under aid to families with dependent children. Under the adoption assistance program, a State would be responsible for determining which children in the State would be eligible for adoption assistance because of special needs which have discouraged their adoption. The State would have to find that any such child would have been receiving AFDC but for the child's removal from the home of his relatives; that the child cannot be returned to that home; and that, after making a reasonable effort consistent with the child's needs, the child has not been adopted without the offering of financial assistance. A search for a nonsubsidized adoptive family would not be required when such a search would be against the best interests of the child, for example, where the child had already established significant emotional ties as a foster child of the potential adoptive parents. Even in such cases, however, the State would have to determine that it could not reasonably expect to place the child in the absence of adoption assistance because of some specific factor or condition which makes the child hard to place. The determination could be based on

such factors as a physical or emotional handicap, the need to place members of a sibling group with a single adoptive family, difficulty in placing children of certain ages or ethnic backgrounds, or similar factors or combinations of factors. Each State would be responsible for deciding which factors would ordinarily result in making it difficult to place certain children in adoptive homes. The committee expects, however, that the Department will sufficiently monitor this program to assure that *bona fide* determinations are being made on the basis of specific factors and that children are not being routinely classified as "hard-to-place."

If the State determines that an adoption subsidy is needed, it would be able to offer adoption assistance to parents who adopt the child, so long as their income does not exceed 115 percent of the median income of a family of four in the State, adjusted to reflect family size. This is an income test used in the title XX social services program. The agency administering the program could make exceptions to the income limit where special circumstances in the family warrant adoption assistance. The amount of the adoption assistance would be agreed upon between the parents and the agency, could not exceed the foster care maintenance payment that would be paid if the child were in a foster family home, and could be readjusted by agreement of the parents and the local agency to reflect any changed circumstances. Adoption assistance payments would not be paid: (1) after the child has attained the age of 18; or (2) for any period when the family income rose above the specified limits. A child with a medical disability which existed at the time of the adoption would continue to be covered under the medicaid program for treatment related to that medical disability. States would be permitted, if they wish, to make an adopted child with a preexisting medical condition eligible for treatment under medicaid of other medical conditions as well.

There would be no Federal matching for adoption subsidy agreements beginning in fiscal year 1983—though Federal matching for subsidies under agreements entered into before then would continue to be available. This would permit a review of the program by the Congress before the end of the 5-year trial period.

Where children are placed for adoption with assistance being provided under the new adoption assistance program, the nonrecurring costs involved in the adoption proceedings would be eligible for funding as child welfare services under title IV–B.

FOSTER CARE GRANTS

(Section 101 of the Bill)

Present law.—Under present law open-ended Federal matching is provided for foster care payments under aid to families with dependent children if a child (1) meets State AFDC eligibility requirements, and (2) is removed from his home "as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child". AFDC foster care payments totalled $338 million in fiscal year 1976 with a Federal share of $177 million (52 percent). Table 1 shows these amounts by State.

TABLE 1.—AID TO FAMILIES WITH DEPENDENT CHILDREN—FOSTER CARE SEGMENT, FISCAL YEAR 1976

State	Total payments computable for Federal funding	Federal share
Total	$337,561,504	$176,730,109
Alabama	1,672,737	1,152,001
Alaska	1,239,287	514,716
Arizona	97,708	36,233
Arkansas	571,877	426,621
California	48,638,183	24,319,090
Colorado	1,978,723	1,082,164
Connecticut	4,419,158	2,209,578
Delaware	898,242	449,120
District of Columbia	1,075,499	537,750
Florida	201,525	74,173
Georgia	3,044,243	1,635,383
Guam	18,813	9,406
Hawaii	73,753	36,876
Idaho	853,941	582,217
Illinois [1]	11,631,000	5,815,500
Indiana	2,911,258	1,673,100
Iowa	1,750,655	1,000,150
Kansas	5,200,506	2,809,313
Kentucky	2,339,978	1,670,043
Louisiana	2,937,261	2,126,871
Maine	2,355,774	1,663,177
Maryland	6,728,784	3,364,392
Massachusetts	7,595,022	3,797,511
Michigan	14,792,883	7,396,440
Minnesota	9,959,244	5,662,933
Mississippi	1,383,289	975,694
Missouri	1,735,723	1,027,216
Montana	790,173	499,468
Nebraska	916,966	509,744
Nevada	457,304	228,652
New Hampshire	658,610	397,011
New Jersey	2,559,390	1,279,694
New Mexico	163,537	119,856
New York	147,261,163	73,474,009
North Carolina	1,055,615	718,135

See footnotes at end of table.

TABLE 1.—AID TO FAMILIES WITH DEPENDENT CHILDREN—FOSTER CARE SEGMENT, FISCAL YEAR 1976—Continued

State	Total payments computable for Federal funding	Federal share
North Dakota	827,771	476,713
Ohio	4,356,349	2,369,420
Oklahoma	796,662	537,112
Oregon	5,282,077	3,118,539
Pennsylvania	10,806,337	5,985,629
Rhode Island	412,265	233,135
South Carolina	674,239	463,956
South Dakota	830,101	558,076
Tennessee	2,733,099	1,418,455
Texas	1,887,038	1,028,780
Utah	741,942	519,657
Vermont	712,971	497,797
Virginia	6,357,498	3,708,964
Washington	3,983,003	2,139,670
West Virginia	747,244	537,269
Wisconsin	6,304,483	3,777,019
Wyoming	140,601	85,681

[1] Based on monthly estimates.

Source: Department of Health, Education, and Welfare.

Committee provision.—The committee believes that it would be appropriate in light of its desire to emphasize more permanent placement to convert the foster care program into a closed end authority. States have had over 15 years in which to utilize this program and develop its potentials. The committee provision accordingly would use the State's fiscal year 1977 expenditures under the program as a base allowing for further expansion of 20 percent in fiscal 1978 and 10 percent per year in each of the next 4 years—through 1982. In other words, Federal funding under this program, which is expected to reach a level of somewhat more than $200 million for fiscal year 1977, would be allowed to increase over the next 5 years by about 75 percent or to approximately $350 million and would thereafter remain constant. The committee believes that this allows ample room for reasonable growth in this program over the next few years while measures designed to move children out of foster care into more permanent situations, that is, back into their own families or into adoptive homes, are being developed and implemented with the additional funding expected to be made available under the title IV–B child welfare services program. As a further incentive for emphasizing permanent

placements, the funds available to each State within its new foster care ceiling could under the committee provision be used alternatively for child welfare services under title IV–B to the extent that the State does not need its full ceiling for foster care purposes. In addition, for any year an alternative foster care grant ceiling would be provided equal to each State's share of $100 million based on population under age 21 in each of the States. This would provide some additional room for program growth in those States which now have disproportionately small foster care programs. Table 2 shows the estimated 1978 ceilings under both alternatives.

TABLE 2.—FISCAL YEAR 1978 FOSTER CARE CEILING UNDER COMMITTEE BILL

[Millions]

State	120 percent of 1977 [1] (a)	State share of $100,000,000 on basis of child population (b)	Excess of (b) over (a)
Alabama	$1.58	$1.76	$0.18
Alaska	.60	.20	.....
Arizona	.15	1.11	.96
Arkansas	.56	.99	.43
California	33.17	9.65	.....
Colorado	2.12	1.23	.....
Connecticut	3.40	1.39	.....
Delaware	.60	.28	.....
District of Columbia	.80	.31	.....
Florida	.25	3.53	3.28
Georgia	2.60	2.45	.....
Hawaii	.03	.44	.41
Idaho	.49	.42	.....
Illinois	5.89	5.23	.....
Indiana	2.00	2.57	.57
Iowa	1.37	1.34	.....
Kansas	2.97	1.04	.....
Kentucky	1.92	1.62	.....
Louisiana	3.59	1.97	.....
Maine	2.22	.42	.....
Maryland	4.20	1.95	.....
Massachusetts	5.00	2.64	.....
Michigan	10.83	4.54	.....
Minnesota	5.26	1.90	.....
Mississippi	1.45	1.23	.....

See footnotes at end of table.

TABLE 2.—FISCAL YEAR 1978 FOSTER CARE CEILING UNDER COMMITTEE BILL—Continued

[Millions]

State	120 percent of 1977 [1] (a)	State share of $100,000,000 on basis of child population (b)	Excess of (b) over (a)
Missouri	1.66	2.18	.52
Montana	.85	.37	.....
Nebraska	.71	.73	.02
Nevada	.27	.28	.01
New Hampshire	.54	.38	.....
New Jersey	2.84	3.29	.45
New Mexico	.18	.61	.43
New York	97.76	8.00	.....
North Carolina	2.97	2.61	.....
North Dakota	.61	.31	.....
Ohio	2.76	5.14	2.38
Oklahoma	.67	1.24	.57
Oregon	4.46	1.03	.....
Pennsylvania	8.53	5.23	.....
Rhode Island	.28	.41	.13
South Carolina	.74	1.43	.69
South Dakota	.61	.34	.....
Tennessee	2.67	1.94	.....
Texas	4.61	6.04	1.43
Utah	.58	.68	.10
Vermont	.57	.23	.....
Virginia	3.97	2.36	.....
Washington	2.65	1.65	.....
West Virginia	.64	.82	.18
Wisconsin	9.74	2.22	.....
Wyoming	.14	.18	.04
Total	245.09	100.00	12.78

[1] Based on available 1977 estimates.

In establishing a ceiling on foster care funding, the committee recognizes that certain expenditures are currently in dispute. The bill provides, accordingly, that the fiscal year 1977 base and subsequent year increments to that base—through 1982—will count the amounts in dispute until such time as the Secretary of HEW has reached a

final determination as to whether or not those amounts are properly chargeable as AFDC foster care expenditures. When such a final determination has been made, the State's foster care funding ceiling will be readjusted to conform to that determination. However, amounts payable to the State prior to the date of that determination will not be considered to be in excess of the ceiling as a result of the readjustment of the base.

In reviewing the need for legislation related to foster care, the committee has noted that the available statistical data on AFDC foster care indicates widely varying cost. The March 1977 statistics indicate costs which on an annual basis would range from less than $1,000 per child in some States to more than $10,000 per child in others. Much of this variation clearly is related to expenditures for foster care in institutions. The committee notes that present law calls for the Secretary to limit reimbursement of the cost of care in foster care institutions to include "only those items which are included in such term in the case of foster care in the foster family home of an individual." In order to place reimbursement for institutional care on a basis comparable to that for foster home care, the committee bill specifies that Federal funding is authorized only for maintenance items—such as food, clothing, shelter, personal needs—and also for the costs of providing those items and of supervising the children. While it is reasonable to expect that the cost of care in an institution because of the administrative expenses and other overhead cost may be somewhat higher than cost in a private foster family home, the provision is not intended to serve as a conduit for funding various types of specialized services which are more properly funded under the title XX social services authority. The committee also recognizes that it would be undesirable to abruptly change the availability of funding under this provision. Accordingly, it is the intent of the committee that the Secretary shall apply a standard of reasonableness to allow a transition from present practice to reimbursement for maintenance alone.

The current wide variation among States in the cost of institutional care and the very high per child cost of care in certain States would seem to indicate that at least in some instances States are now claiming Federal reimbursement for costs which would be difficult to justify as strictly "maintenance costs." The available data at this time, however, are insufficient to indicate whether improper funding of nonmaintenance costs is the only or major cause of the variations which exist in institutional care costs in different States, and the committee accordingly directs the Secretary of Health, Education, and Welfare to undertake a specific study of the cost of institutional foster care funded through title IV–A and the new title IV–E of the Social Security Act, with a view toward providing a basis for any further legislation which may be necessary.

The committee provision does not include a change which would have been made under the House bill allowing Federal matching for AFDC foster care payments to children voluntarily placed in foster care without a judicial determination. The committee believes that such a change is inappropriate and would substantially expand the utilization of the AFDC foster care authority. The committee believes that in the context of this legislation added Federal funding

is more appropriately devoted to measures designed to move children from foster care into other more permanent situations. The committee notes that the existing law is written in such a way that emergency placements in foster care can be made and subsequently ratified by judicial determination without losing eligibility for AFDC matching.

At the present time Federal funding of foster care maintenance payments for children is available for children placed in foster care homes and also for children placed in a nonprofit private child care institution. The committee bill would broaden the provision to allow for Federal funding of foster care maintenance payments for children in public as well as private facilities, but only if the public institution serves no more than 25 resident children. While the committee recognizes that this change in the law does somewhat expand the foster care authority of the law contrary to the committee's overall goal of deemphasizing foster care, the committee believes that such a change is important in order to encourage States to develop less intensive forms of institutional foster care. In other words, it is the intent of the committee that this authority be used by the States to make it possible to move children from large, highly institutionalized private institutions into smaller institutions which more nearly approximate the atmosphere of a home. Funding under this provision will not be available for children who are already in public institutions of this type, but only for those placed in such foster care after the enactment of the bill. Because the intent of this provision is to encourage the development and utilization of group home care, the committee expects that the administration will closely monitor claims for reimbursement under this authority to assure that payments are not made with respect to care in large institutions which have made superficial changes, such as the establishment of a "group home" wing within a larger institution. The committee intends that only institutions which are clearly and definitely separate entities serving 25 or fewer children will be covered by the provision. No Federal matching will be available under this provision for care provided in a detention facility, forestry camp, training school, or any other facility operated primarily for the detention of children who are determined to be delinquent.

CHILD WELFARE SERVICES (TITLE IV–B)

(Sections 102 and 103 of the Bill)

Present law.—The child welfare services program under title IV–B of the Social Security Act provides a relatively small Federal contribution to the costs of State programs to protect and promote the welfare of children including the provision of services to enable children to remain in their own homes, action to remove children from unsuitable homes and place them in foster care homes or institutions, and measures to place children in adoptive homes. Title IV–B authorizes annual appropriations of up to $266 million for child welfare services but the appropriation has never exceeded $56.5 million. Total costs of operating these programs actually amounted to approximately $750 million in fiscal year 1976. The various categories of expenditures are shown in table 3.

TABLE 3.– CHILD WELFARE SERVICES: STATE ESTIMATES OF TOTAL EXPENDITURES FROM ALL SOURCES, FISCAL YEAR 1976

State	Adoption	Day care	Foster care	Protective services	Other CWS services	Total
Total	$14,370,112	$67,256,525	$541,331,103	$46,454,651	$83,145,355	$752,557,746
Alabama	1,324,262	0	5,376,393	2,648,524	1,137,930	10,487,109
Alaska	0	0	1,866,650	0	0	1,866,650
Arizona	251,000	475,000	8,548,400	520,400	101,000	9,895,800
Arkansas	0	0	2,322,641	0	619,302	2,941,943
California	0	1,650,000	89,891,169	0	14,181,750	105,722,919
Colorado	0	0	9,343,493	837,504	870,503	11,051,500
Connecticut	180,000	32,000	9,515,568	87,661	98,000	9,913,229
Delaware	0	20,731	410,646	0	0	431,377
District of Columbia	268,889	5,235,600	10,860,406	575,041	157,104	17,097,040
Florida	336,888	571,455	14,193,707	5,375,793	944,980	21,422,823
Georgia	0	0	2,449,799	0	0	2,449,799
Guam	0	0	52,800	0	104,694	157,494
Hawaii	15,067	1,126	1,887,036	117,559	143,683	2,164,471
Idaho	0	0	701,449	0	76,641	778,090
Illinois [1]						5,106,900
Indiana	241,270	0	23,694,311	34,500	397,388	24,367,469
Iowa	32,000	35,000	5,350,000	37,000	0	5,454,000
Kansas	0	0	988,455	0	479,500	1,467,955
Kentucky	0	0	1,166,647	0	688,248	1,854,895
Louisiana	0	151,130	5,737,000	0	400	5,888,530

Maine	64,300	32,000	1,560,700	91,000	246,800	1,994,800
Maryland	280,900	8,000	7,913,554	359,020	113,120	8,674,594
Massachusetts	16,000	0	39,900,000	0	184,000	40,100,000
Michigan	0	35,160,150	17,714,390	0	0	52,874,540
Minnesota	13,400	250,300	1,062,770	85,000	536,000	1,947,470
Mississippi	20,000	1,000	1,520,000	70,000	430,300	2,041,300
Missouri	0	0	4,766,771	0	0	4,766,771
Montana	0	0	1,241,798	0	84,066	1,325,864
Nebraska	0	0	1,333,585	0	0	1,333,585
Nevada	0	0	663,000	0	70,000	733,000
New Hampshire	0	0	187,000	0	253,431	440,431
New Jersey	1,100,000	6,704,000	31,991,830	9,770,613	8,795,864	58,362,307
New Mexico	0	0	692,942	0	0	692,942
New York	4,919,260	14,195,482	148,022,384	0	0	167,137,126
North Carolina	73,000	217,322	4,035,668	0	3,410,508	7,736,498
North Dakota	0	4,174	6,000	0	419,935	430,109
Ohio	2,300,100	1,093,479	38,821,441	7,190,200	7,944,518	57,349,738
Oklahoma	12,997	63,628	1,836,675	18,041	8,535	1,939,876
Oregon [1]						4,063,847
Pennsylvania	848,338	0	3,394,353	14,846,422	23,330,212	42,419,325
Puerto Rico	46,648	215,890	1,532,400	195,125	19,544	2,009,607
Rhode Island	102,931	25,546	5,251,659	686,683	342,506	6,409,325
South Carolina	1,265,862	12,191	1,168,730	1,318,557	167,130	3,932,470
South Dakota	32,000	70,000	1,840,320	79,840	120,876	2,143,036
Tennessee [1]						1,977,818

TABLE 3.—CHILD WELFARE SERVICES: STATE ESTIMATES OF TOTAL EXPENDITURES FROM ALL SOURCES, FISCAL YEAR 1976

State	Adoption	Day care	Foster care	Protective services	Other CWS services	Total
Texas	500,000	0	4,000,000	0	3,144,052	7,644,052
Utah	25,000	40,000	2,550,000	40,000	820,800	3,475,800
Vermont	0	0	2,062,000	0	0	2,062,000
Virgin Islands	0	876,631	524,880	764,788	797,793	2,964,092
Virginia	100,000	114,690	8,476,358	555,380	40,000	9,286,428
Washington	0	0	10,353,487	0	0	10,353,487
West Virginia	0	0	208,359	150,000	526,316	884,675
Wisconsin	0	0	2,041,543	0	189,361	2,230,904
Wyoming	0	0	299,936	0	0	299,936

[1] Not identified by type of service.

Source: Department of Health, Education, and Welfare (based on voluntary State reports).

Committee bill.—The committee bill would retain the provision of present law which authorizes an appropriation of $266 million annually for child welfare services, but would increase the Federal matching rate for the program to a flat 75 percent—unlike the range of from 33⅓ to 66⅔ percent under present law. So that additional Federal funds which the committee recommends be appropriated in future years are not simply used to replace State funds for foster care to children not eligible for AFDC, the committee bill provides that any additional funds appropriated for child welfare services—above the present funding level of $56.5 million—may not be used for foster care maintenance payments. Foster care maintenance payments above that level could, however, be used toward meeting the 25-percent non-Federal share of the program.

The committee believes that, by limiting the use of child welfare funds for foster care to the existing level of funding, the concern that new Federal funds will not result in new services to children will be substantially allayed. It expects that appropriations levels will be increased in future years up to the full existing authorization levels with full confidence that the States will use the money in ways which best serve the needs of children. At the same time, the committee recognizes that concerns have been expressed over the need for increased accountability in the care of children who suffer from various forms of neglect. For this reason, the committee would retain the basic nature of the child welfare services program as one which is subject to annual review through the appropriations process. In addition, the committee would enable the administration to request that up to half of any new funds for the program be earmarked for use in accord with the procedures which the administration has proposed as a way to increase accountability in the program. This will provide ample opportunity for the administration to pursue initiatives in this program while leaving flexibility for those States which may find other approaches more appropriate.

The committee bill would add a new section to the child welfare services part of the law specifically permitting expenditures for State tracking and information systems, individual case review systems, services to reunite families or place children in adoption, and procedures to protect the rights of natural parents, children and foster parents. This would allow the Congress to designate that up to half of any new funding—over and above the current $56.5 million funding level, but within the overall $266 million now authorized—be specifically for this new section. (This earmarking would be accomplished through the appropriations process and not as a part of the authorizing statute.) State participation in this part of the program would be optional.

In the first year for which funds are allotted to a State specifically for the new section—and only in that year—those funds could be used:

1. For conducting and completing an inventory of all children who have been in foster care under the responsibility of the State for a period of 6 months preceding the inventory, including determining the appropriateness of and necessity for the current foster placement, whether the child can or should be returned to its parents or should be freed for adoption or legal guardianship and the services necessary

to facilitate either the return of the child or the placement of the child for adoption.

2. To design and develop:

(*a*) A statewide information system concerning children in foster care.

(*b*) A case review system for each child in foster care under the supervision of the State. (Such a system—if funded under this new section—would have to include procedures for assuring placement in the least-restrictive setting and provision for an annual or more frequent judicial or administrative review of: the appropriateness of the placement, compliance with the case plan, and prospects for returning the child home or placing him for adoption. Within 24 months after the initial placement, each child would have to receive a dispositional hearing by a court, tribal court, or court-appointed administrative body to determine the future status of the child. The case review system would also have to provide for procedural safeguards concerning parental rights, the removal of a child from the home, changes in placement, and visitation rights.)

(*c*) A service program designed to help children remain with their families and where appropriate help children return to families from which they have been removed or be placed for adoption or a legal guardianship.

(In that first year only, administrative expenses incurred for conducting the inventory and for designing the information and case review systems—insofar as children receiving foster care under part E are involved—could be funded under that part without regard to the ceiling on foster care funding which would otherwise apply.)

When the inventory has been completed and the systems and programs have been designed and developed, funding appropriated for the new section could be used to operate the systems and programs described in item 2. A State which already has an inventory of children in foster care and has developed the specified systems and programs could immediately use any funds which may be appropriated under the new section.

An additional element of the committee bill would authorize the Secretary of Health, Education, and Welfare—to the extent he determines appropriate—to deal directly with recognized Indian governmental entities in making child welfare services grants under title IV–B.

The committee bill also requires States to provide statistical information on foster care and adoptions which would be published by the Secretary of HEW. Grants for child welfare services could be used to comply with the statistical reporting required by the bill.

B. Social Services

CHILD CARE

(Section 201 of the Bill)

Present law.—Among other requirements mandated by the social services program—title XX of the Social Security Act—for child care funded under the Social Security Act are certain minimum staffing standards. The standards are shown in the table below.

CHILD CARE CENTER STAFFING REQUIREMENTS UNDER LAW AND HEW REGULATION

Age of child	Maximum number of children per staff member	
Under 6 weeks	1	Required by regulation.
6 weeks to 3 years	4	Required by regulation.[1]
3 to 4 years	5	Required by law.[1]
4 to 6 years	7	Required by law.[1]
6 to 9 years	15	Maximum number allowed by law (though Secretary of HEW may lower the maximum number of children per staff member, thus increasing the staff required).
10 to 14 years	20	

[1] Public Law 94-401 provides that no penalty for noncompliance may be invoked prior to Oct. 1, 1977.

The above standards were to have become effective as of October 1, 1975, the date when the title XX program went into operation. However, because the imposition of these staffing standards would have increased the cost of operation of the program and because of disagreement as to the appropriateness of these standards, the 94th Congress enacted legislation postponing their implementation on a mandatory basis until October 1, 1977, by which time a major study of their appropriateness was to have been completed by the Department of Health, Education, and Welfare.

Legislation enacted earlier this year—Public Law 95-59—has deferred until April 1, 1978, the date by which the Department must make its report on the appropriateness of the child care staffing standards in permanent law. The Department had requested this deferral in order to permit it to take into account the results of certain studies which would not have been completed in time to be used under the prior deadline of July 1, 1977.

The 94th Congress legislation, in addition to suspending the implementation of the title XX staffing standards for child care, also provided for a temporary increase in the limit on Federal funding under the title XX program. The amount made available was $40 million for the period prior to fiscal year 1977 and $200 million for fiscal year 1977. The additional funding was allocated among the States in the same way as the permanent $2.5 billion limit, that is, on a population basis. The $200 million for fiscal year 1977 was available on a 100-percent Federal basis and could not exceed the amount of State expenditures for child care. The law requires States, to the extent they determine feasible, to use the added Federal funding in a way which would increase employment of welfare recipients and other low-income persons in child care jobs. The law also permits States, without regard to the usual title XX requirements, to use the added Federal

funding to make grants to child care providers to cover the cost of employing welfare recipients. These grants are limited to $4,000 a year per employee in the case of proprietary providers, but may be supplemented by use of a 20-percent tax credit to providers who hire welfare recipients. For public and nonprofit providers, which are ineligible for tax credits, the limit on grants is $5,000. Grants can be made under this authority only if at least 20 percent of the children served by the child care provider have their care paid for through the title XX program. Expenditures for child care under title XX, as estimated in State plans for fiscal year 1977, are shown in the table below.

TABLE 4.—DAY CARE FOR CHILDREN UNDER TITLE XX OF THE SOCIAL SECURITY ACT, AS ESTIMATED IN STATE PLANS FOR FISCAL YEAR 1977 (INCLUDES FEDERAL AND STATE EXPENDITURES)

State	Number of children	Expenditures for day care	Expenditures for all title XX programs	Day care expenditures as percentage of total expenditures
Alabama	14,127	$15,727,326	$56,219,896	28.0
Alaska	664	858,000	5,299,900	16.2
Arizona	10,114	8,912,248	32,411,119	27.5
Arkansas	7,390	6,421,542	32,150,166	20.0
California	54,233	109,869,706	407,395,431	27.0
Colorado	17,726	10,706,951	39,191,700	27.3
Connecticut [1]				
Delaware	2,200	4,633,855	9,021,498	51.4
District of Columbia	4,163	3,170,900	14,709,500	21.6
Florida	12,660	18,786,517	125,625,549	15.0
Georgia	21,019	20,278,344	79,633,239	25.5
Hawaii	2,773	4,000,025	13,558,327	29.5
Idaho	882	121,826	12,630,000	1.0
Illinois	102,286	54,792,000	188,662,743	29.0
Indiana	2,516	6,201,055	40,796,661	15.2
Iowa	29,147	3,819,812	45,627,645	8.4
Kansas [1]				
Kentucky	2,300	3,345,937	53,473,582	6.3
Louisiana	25,103	12,694,873	58,905,539	21.6
Maine	2,286	2,524,701	16,220,833	15.6

TABLE 4.—DAY CARE FOR CHILDREN UNDER TITLE XX OF THE SOCIAL SECURITY ACT, AS ESTIMATED IN STATE PLANS FOR FISCAL YEAR 1977 (INCLUDES FEDERAL AND STATE EXPENDITURES)—Continued

State	Number of children	Expenditures for day care	Expenditures for all title XX programs	Day care expenditures as percentage of total expenditures
Maryland	10,386	$13,958,389	$64,505,690	21.6
Massachusetts	19,625	24,443,910	117,031,336	20.9
Michigan	[2] 17,264	32,894,239	143,340,269	23.0
Minnesota	11,671	6,535,218	61,720,224	10.6
Mississippi [1]				
Missouri	12,645	11,730,536	75,442,978	15.6
Montana	[3] 1,262	[3] 1,641,709	11,270,000	14.6
Nebraska	[2] 6,680	9,060,142	24,333,333	37.2
Nevada	3,679	286,775	8,741,596	3.3
New Hampshire [1]				
New Jersey	61,609	39,335,662	115,019,825	34.2
New Mexico	3,532	3,433,359	17,298,160	19.9
New York	68,108	129,720,524	285,600,000	45.4
North Carolina	12,000	16,741,510	82,362,493	20.3
North Dakota	294	152,670	10,000,000	1.5

Ohio	42,745	19,111,623	169,397,133	11.3
Oklahoma [1]				
Oregon [1]				
Pennsylvania	22,793	66,659,375	206,691,000	32.3
Rhode Island	6,388	1,819,904	16,394,312	11.1
South Carolina	4,884	9,449,841	43,544,277	21.7
South Dakota	[4] 2,281	1,327,019	11,359,811	11.7
Tennessee [1]				
Texas	41,540	33,596,024	187,545,708	17.9
Utah	5,342	3,221,507	18,500,100	17.4
Vermont	1,646	2,266,707	7,919,319	28.6
Virginia	16,179	12,959,083	78,734,459	16.5
Washington	13,051	9,251,057	54,590,029	17.0
West Virginia	[2] 5,946	5,366,159	28,907,521	18.6
Wisconsin [1]				
Wyoming	3,420	984,620	5,588,105	17.6
Total	[5] 674,388	[6] 742,813,180	3,077,371,006	24.1

[1] State plan does not identify day care for children as a separate component.
[2] Monthly data.
[3] Includes children in day care under the work incentive program.
[4] Data is for families.
[5] Total excludes estimates for States identified in footnotes 1, 2, and 4.
[6] Total excludes estimates for States identified in footnote 1.

Note: When States define day care for children with special needs as a separate service, estimates for clients served and expenditures are excluded from the totals. Special needs include blindness, mental retardation, developmental disabilities, emotional and behavioral problems, physical handicaps, etc.

Source: Department of Health, Education, and Welfare.

Committee provision.—The committee bill would increase the ceiling on Federal matching for social services to $2.7 billion on a permanent basis, beginning with fiscal year 1978. However, in fiscal year 1978 the additional $200 million would be provided for child care services on a 100-percent Federal funding basis. In addition, under the committee bill the child care standards which were suspended to October 1, 1977, would be suspended for 1 additional year, to October 1, 1978. This will give the Department ample time to complete its study of child care standards and to report to the Congress, as required, and will assure the Congress time to consider the standards issue, if necessary before the implementation date. The committee amendment would not extend the temporary provision of present law which prevents States from lowering their staffing standards below their September 1975 standards.

The committee bill would extend for 5 years the provision which expired October 1, 1977, to permit State welfare agencies to waive the Federal staffing requirements in the case of child care centers and group day care homes which meet State standards if the children receiving federally funded care represent no more than 20 percent of the total number of children served—or, in the case of a center, either this 20-percent requirement is met or there are no more than five such children—provided that it is infeasible to place the children in a facility which does meet the Federal requirements. The committee provision would also extend for 5 years the current temporary provision under which, in counting the number of children who may be cared for in a family day care home, the family day care mother's own children are not counted unless they are under age 6.

As noted above, the legislation enacted in 1976 also included temporary provisions designed to encourage the employment of welfare recipients in child care jobs. The welfare recipient employment incentive tax credit which provides a 20-percent credit for the expenses incurred by employers in hiring welfare recipients was extended to September 30, 1977, in the case of child care jobs. States were also authorized to use the additional funds made available under the social service program to reimburse employers for the cost of hiring welfare recipients to the extent that the costs were not met through the tax credit. The committee bill would extend these two provisions an additional 5 years, until October 1, 1982. The committee bill would also make these two additonal modifications:

1. Existing law limits the reimbursement of child care providers who hire welfare recipients so that the reimbursement (including both the tax credit and direct reimbursement) applies only to full-time employment. The committee bill would make these provisions applicable also to part-time child care jobs.

2. In the case of private, proprietary child care centers, direct reimbursement by the welfare agency was limited under last year's legislation to 80 percent of the first $5,000 of wages paid in the expectation that the remaining amount would be covered by the 20 percent tax credit provisions. The 20-percent tax credit, however, can only be computed on the basis of nonreimbursed expenses. The committee modified this rule as it applies to the employment of welfare recipients in child care employment to provide comparable treatment of proprietary and nonprofit providers.

TABLE 5.—LIMIT ON FEDERAL SHARE OF STATE EXPENDITURES FOR SOCIAL SERVICES FOR FISCAL YEAR 1978

[In millions]

State	Full allocation under $2,500.000 limit	Allocation of additional $200.000
Total	$2,500.000	$200.000
Alabama	42.500	3.400
Alaska	4.250	.340
Arizona	26.000	2.080
Arkansas	24.750	1.980
California	248.500	19.880
Colorado	29.750	2.380
Connecticut	36.250	2.900
Delaware	6.750	.540
District of Columbia	8.500	.680
Florida	98.000	7.840
Georgia	57.750	4.620
Hawaii	10.250	.820
Idaho	9.750	.780
Illinois	130.750	10.460
Indiana	62.250	4.980
Iowa	33.750	2.700
Kansas	26.500	2.120
Kentucky	39.750	3.180
Louisiana	44.500	3.560
Maine	12.500	1.000
Maryland	48.000	3.840
Massachusetts	68.250	5.460
Michigan	107.500	8.600
Minnesota	46.000	3.680
Mississippi	27.500	2.200
Missouri	55.750	4.460
Montana	8.750	.700
Nebraska	18.250	1.460
Nevada	7.000	.560
New Hampshire	9.500	.760
New Jersey	85.750	6.860
New Mexico	13.500	1.080
New York	212.500	17.000
North Carolina	64.000	5.120
North Dakota	7.500	.600

TABLE 5.—LIMIT ON FEDERAL SHARE OF STATE EXPENDITURES FOR SOCIAL SERVICES FOR FISCAL YEAR 1978—Continued

[In millions]

State	Full allocation under $2,500.000 limit	Allocation of additional $200.000
Ohio	$126.250	$10.100
Oklahoma	31.750	2.540
Oregon	26.750	2.140
Pennsylvania	138.750	11.100
Rhode Island	10.750	.860
South Carolina	33.000	2.640
South Dakota	8.000	.640
Tennessee	49.250	3.940
Texas	143.500	11.480
Utah	14.250	1.140
Vermont	5.500	.440
Virginia	58.250	4.660
Washington	41.500	3.320
West Virginia	21.250	1.700
Wisconsin	54.000	4.320
Wyoming	4.500	.360

ADDICTS AND ALCOHOLICS

(Section 201 of the Bill)

Present law.—The 94th Congress enacted a temporary amendment to title XX, due to expire September 30, 1977, to require that special confidentiality requirements of the Comprehensive Alcohol Abuse Act be observed with regard to addicts and alcoholics, clarify that the entire rehabilitative process must be considered in determining whether medical services provided to addicts and alcoholics can be funded as an integral part of a State social services program, and provide for funding of a 7-day detoxification period even though social services funding is generally not available for persons in institutions.

Committee provision.—These temporary provisions have proven to be beneficial to the program and the committee amendment would extend them on a permanent basis.

SOCIAL SERVICES IN PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

(Section 202 of the Bill)

Present law.—Puerto Rico, Guam, and the Virgin Islands do not participate in the title XX social services program on the same basis as the States. Instead, they may receive an allotment for social services

only from the amount that the States and the District of Columbia certify, after the beginning of the fiscal year, that they will not use out of their share of the $2.5 billion in Federal funding under the title XX program. The law specifies that in no case can the allotment exceed $15 million for Puerto Rico and $500,000 each for Guam and the Virgin Islands. Because under present provisions of law these jurisdictions do not know in advance of the program year whether they will have any title XX funds available to them, or the magnitude of those funds, they have had difficulty in making the most effective use of the funds that have become available.

Committee provision.—The committee bill would require each State, prior to the beginning of the fiscal year, to certify to the Secretary whether it will have funds in excess of its title XX program needs and the amount of the excess. If a State certified that its allotment exceeded its needs, then the amount of the allotment would be reduced by the amount of the excess. Under the provision the State could make a subsequent determination, after the beginning of the fiscal year, if it later determined that the amount originally certified was in excess of the amount needed. Amounts certified as in excess of State needs would be available for allotment to Puerto Rico, Guam, and the Virgin Islands, up to the amount of the limitations specified in existing law. It is hoped that this requirement on the States for certification of any excess funds prior to the fiscal year will have the effect of enabling the Secretary to make funds available to Puerto Rico, Guam and the Virgin Islands at an earlier date than is possible under present law.

C. Amendments to Supplemental Security Income Program (SSI)

DEFINITION OF CHILD

(Section 301 of the Bill)

Present law.—For purposes of the SSI program, the term "child" is defined to include an individual age 18 through 21 who is a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment. Otherwise, all persons age 18 or over are treated as adults. The effect of the present definition, in combination with the provision requiring that the parents' income and resources must be deemed to a child in determining the child's eligibility for SSI, may be to discourage a disabled individual between the ages of 18 and 22 from attending school or training. By attending school the individual must be considered a "child" under the SSI law, and the parents' income and resources are deemed to him. The result may be that he loses his SSI eligibility, or that the amount of the benefit is greatly reduced. By not attending school the individual is not considered a child, and only his own income and resources are countable for purposes of determining SSI eligibility.

Committee provision.—The committee believes that there is no logical basis for making this distinction between students and non-students for purposes of SSI eligibility, and that because of its poten-

tially negative effects on incentives of disabled individuals for education and training, the provision of present law should be changed. Thus the committee bill would, in effect, eliminate any differential treatment of individuals on the basis of student status.

The committee provision should not affect significant numbers of SSI recipients. In June 1976 there were only about 18,000 individuals between the ages of 18 and 22 who were receiving SSI benefits, and many of these would not in any case be attending school. The committee expects that for some, however, the change in law will increase the likelihood of school attendance and that the provision will encourage disabled individuals to become self-sustaining.

TREATMENT OF IN-KIND INCOME

(Section 302 of the Bill)

Present law.—The basic purpose of the SSI program is to bring an individual's or a couple's income up to a certain minimum assured level. The statute defines income in a comprehensive manner, and all types of income are considered income—earned, unearned, cash and in kind. However, it was recognized that there are frequent situations where an individual who is aged, blind, or disabled will be living with relatives or others in a type of situation which would make the determination of the exact value of the in-kind income quite difficult. As a matter of administrative simplicity, therefore, the Congress included in the law an exception to the basic rule of counting all income. This exception says that where an individual is living in the household of another person and is receiving support and maintenance in kind from that other person, then the value of the in-kind support and maintenance will not be considered as income; instead, the basic payment standard applicable to the individual will be reduced by one-third.

This provision was included in the law for purposes of administrative simplicity so that the administering agency would not have to determine the exact value of the support and maintenance furnished, for example, to a parent living with his or her adult children. In practice this provision has proven to be one of the most difficult to interpret and administer.

Committee provision.—It is the view of the committee that a change of policy from that now required by the statute is appropriate in view of the difficulty which the Department has encountered in administering present law. The committee would amend the law to establish a general rule of counting as income only cash income which is available for the support and maintenance of the SSI beneficiary. However, in any case where the beneficiary receives regular contributions in kind toward his shelter or food needs, the amount of his maximum SSI benefit would be reduced by one-third unless he can establish that the actual value of those in-kind contributions are of lesser value. This would maintain the basic purpose of existing law to take into account substantial in-kind income while generally avoiding the need to compute the exact value of that income. At the same time, it would avoid the need to determine the difficult question of whether the recipient is "living in the household" of another. It would also be com-

parable with the existing (but not statutorily authorized) present practice of the agency in limiting the reduction in SSI benefits for in-kind income to one-third of the full SSI benefit level in all cases. Under the provision, in-kind contributions should be found to be provided regularly if they are furnished on a recurring basis and constitute a continuing contribution to the individual's support.

DISASTER RELIEF

(Sections 303–306 of the Bill)

Present law.—In the 94th Congress, two provisions were adopted on a temporary basis affecting the eligibility for supplemental security income (SSI) of persons affected by natural disasters. Under one of these provisions, payments to SSI recipients under the Disaster Relief Act or other Federal statute related to a Presidentially declared disaster would not serve to reduce the amount payable under the SSI program. A second provision exempted persons residing in an area affected by a disaster from the provision under which SSI benefits are reduced by one-third in the case of an individual living in the household of another. This exemption applies only if the SSI recipient moved from his own household into the household of another as a result of the disaster and only for a period of no more than 18 months. These two provisions were made applicable only in the case of disasters occurring during the last half of 1976.

Committee provision.—The committee amendment would make the above two provisions applicable in the case of all Presidentially declared disasters occurring after May 31, 1976. In addition, the committee amendment would provide that no reduction in SSI payments may be made because of interest paid on disaster relief payments for a period of 9 months after the funds are received and that disaster relief payments (and any interest on them) would not be considered as assets for purposes of SSI eligibility during the same 9 months. (The amendment allows the Secretary of Health, Education, and Welfare to grant extensions of the 9-month limit.)

Since the SSI program is a basic national income support program for the aged, blind, and disabled, the purposes of the program are ordinarily best served by not differentiating among different sources of income. In the case of disaster relief, however, the committee recognizes that there may be special circumstances of unusual needs and that these will generally be of a very temporary nature. For these reasons, the committee bill, in effect, suspends certain provisions which would otherwise result in the reduction or elimination of SSI eligibility.

MANDATORY STATE SUPPLEMENTATION

(Section 307 of the Bill)

Present law.—Present law requires States to have mandatory supplementation programs to assure that all persons who received assistance under the former programs of aid to the aged, blind and disabled in December 1973 receive no less income under SSI than they received under the previous programs. Although the number of individuals affected by this provision is relatively small, the implementa-

tion of the provision has had a significant impact on program operations and has resulted in unforeseen complexities for both the Social Security Administration and the States.

When the Congress enacted the mandatory supplementation amendment in 1973 (Public Law 93–66), it was intended that it should operate as simply as possible. States were to certify to the Social Security Administration an income assurance level (representing total income as of December 1973) for each recipient converted from the State assistance rolls. The required supplement would be whatever amount was necessary to bring the individual's total income for any subsequent month to that established income assurance level.

In practice, the mandatory supplementation provisions have proven difficult to administer and are frequently cited by Administration officials as a serious complicating factor in running the program. Three particular problems currently exist. First of all, the legislation, as written, is permanent and applies to all those SSI recipients who were on the State welfare rolls in December 1973 even if they are not disadvantaged by the new program. In other words, while only about 100,000 SSI recipients actually benefit from the mandatory supplement provision, the Social Security Administration is required to carry on its records a mandatory supplement level for some 2 million individuals who were converted from the State rolls.

A second problem related to mandatory supplementation is the question of how income is to be counted. This is an area in which the Department has had difficulty in establishing a workable policy. The statute establishing the mandatory supplement requirement simply states that the supplement level is to be determined by looking at the individual's total income including his Federal SSI payment, any State supplementary payment, and any other income. This is compared with his total income in December 1973, determined by adding together his assistance payment under the State welfare program and any other income. The statute does not make any provision for income disregards in either calculation.

The statute was purposely drawn in this manner with a view toward providing the simplest approach possible toward mandatory supplementation, even though certain anomalies might occur, particularly in that a total income guarantee eliminates whatever incentive there might be as a result of income disregards to continue seeking other types of income. The Department, however, made a policy decision that when the Congress said "income" it meant that the Department should administer the provision as though it had said "income after applicable disregards." A difficulty arose, however, once this policy decision was made, in that the Administration was unable to decide whether the disregards to be used should be those applied under State law or those applied under Federal law, or a combination of the two.

What apparently has transpired is that, in issuing interim regulations, the Department decreed that "income" meant income counted by the State. However, in practice, the rule that has been applied is that income means Federal countable income except in one State where State countable income is used. Apparently for State-administered mandatory supplementation, States continue to use State countable income, although the Social Security Administration does not closely monitor what the States do in State administered programs.

The third area of mandatory supplementation which is a cause for concern is the question of changing circumstances. In establishing the mandatory supplement provisions, the Congress recognized that some of those eligible for a mandatory State supplement would qualify for the particular amount involved on the basis of a special need or special circumstance which might subsequently change. The statute, accordingly, provided an opportunity for States to reduce the mandatory supplement level when a change occurred. Under the statute the States would not have been required to make such reductions, but would have been permitted to do so. However, in the case of States electing Federal administration of the mandatory supplement provisions, the burden of identifying and calculating the effect of changes in circumstance was placed upon the States. If the State wished to save the benefit costs associated with the circumstance change, in other words, it would have to bear the administrative costs of determining that the circumstance change had occurred and of calculating the impact of the circumstance change.

The policies adopted by the Department with respect to changes in the mandatory supplement level have proven to be somewhat more complex than was intended. In part, this would appear to be because of a misreading of the statute, but in part it also results from certain elements not well covered by the existing statute. The statutory language simply states that in the case of a change in special need or special circumstance, the minimum amount assured under the mandatory supplementation provisions "shall (unless the State, at its option, otherwise specifies) be reduced" appropriately. While the statute does not directly address the issue of responsibility for discovering and computing the change in special need or circumstance, the Senate report on the bill in which the mandatory supplement provisions were proposed indicates State responsibility: "When the State determines that a special need (including one based on a rental allowance) is the reason for all or part of the supplementary State payment, and that the special need has been reduced or ceases to exist, it can appropriately reduce the payment" (S. Rept. 93–249, p. 25.)

The Department's policy with respect to who is responsible for identifying changes in circumstances and calculating the benefit differential is hazy at best. Moreover, the Department has taken the position that the term "special circumstances" is a term of art; consequently, changes in mandatory supplement levels cannot be made on the basis of changes in circumstances which would have required a change in payment levels under the former State assistance program unless the State plan specifically identified such changes as affecting "special needs or special circumstances." Thus, in some States a higher allowance for an individual living in domiciliary care facilities would be considered a part of "basic" rather than "special" needs and the higher payment would have to be continued even if the individual moved to independent living arrangements. In other States, the identical change of circumstances may have been characterized in the State plan as a "special need" change. In such a State, the mandatory supplement could be reduced appropriately when the individual moves.

A related problem arises because the statute, as interpreted by the Administration, refers to a mandatory supplement for the eligible

individual and does not specifically deal with the allocation of income within an eligible family. An example of this type of complication is shown below.

As of December 1973, a 66-year-old man with a 61-year-old wife received a State welfare payment of $138. Since the SSI level for an aged individual is $177.80, no mandatory supplement would be required under the SSI program. When this individual's wife reaches age 65, however, she qualifies for an SSI benefit raising the amount payable from $177.80 for her husband alone to $266.70 for the couple. Because her husband's one-half interest in this higher payment is $133.40, however, Social Security Administration policy is to require the State to begin providing a mandatory supplement of $4.60 to bring the man's payment up to the $138 he was getting in December 1973.

Committee provision.—The committee amendment would modify the mandatory supplementation requirements in three respects. First, it would eliminate the requirement for those individuals who, after September 1977, are (1) no longer residents of the State to which such rules apply, (2) receiving income greater than their December 1973 income, (3) ineligible for SSI because they are in a public institution or because of other specific restrictions on SSI eligibility, or (4) ineligible because of excess resources.

Second, in the case of federally administered mandatory State supplementation the committee amendment would modify the statute to specify that the amount of the supplement payable each month is to be based on the income assurance level certified to the Secretary by the State, and on the individual's countable income for Federal SSI purposes.

The provision in the committee bill specifies that income will be determined for federally administered State supplementation according to the technical rules set out in section 1612 of the act for Federal SSI benefits. This provision is not intended to carryover the various deeming rules applicable under other sections of the act. The committee expects that the Secretary will make appropriate determinations for the deeming of income from other persons (such as the individual's spouse) to carry out the general intent of mandatory supplementation. This general intent is to leave the individual and his household in no less favorable a situation than they would have been in had the SSI program not been enacted.

States would be authorized but not required to recertify a lower mandatory supplement income assurance level when they determine that the individual (or couple) have any changed circumstances which would have resulted in a comparable reduction in their welfare grant under the former State welfare program. If States wish to avail themselves of this provision, the responsibility and cost of administering it will rest with the States (including appropriate provision for handling appeals of such determinations). The administrative responsibility of the Social Security Administration would be limited to that of establishing a procedure to accept and process State recertifications.

Third, in the case of State-administered mandatory supplementation, States would be permitted to use State countable income as defined under the former State welfare plan, Federal countable income for SSI, or gross income so long as the same type of income is used for all recipients in the State.

The committee believes that the second and third recommendations are essentially consistent with the original intent of the mandatory supplement legislation. The first recommendation seems appropriate in view of the purposes of mandatory supplementation and in view of the need to simplify the operations of the SSI program.

TESTING OF ACCOUNTING AND REPORTING METHODOLOGIES

(Section 308 of the Bill)

Present law.—Under the SSI statute, the determination of an individual's eligibility and amount of entitlement is computed over a quarterly rather than a monthly period. Operating personnel of the Social Security Administration have stated that they find this provision to be a cause of considerable confusion and administrative difficulty. It also is alleged to create certain problems in overpayment policy in that an increase in a recipient's earnings or other income which occurs near the end of a quarter will affect his entitlement for the entire quarter. Thus SSI payments which are absolutely correct when paid in January can become overpayments because of unanticipated income received in March.

The adoption of a quarterly accounting period in the original SSI legislation was apparently based on the fact that the Social Security Administration receives quarterly reports of all wages in employment covered by social security. Thus the use of a quarterly accounting period for SSI could simplify the use of social security wage records to verify an SSI beneficiary's reported income from wages. In practice, however, the agency has not yet developed a capability for automatically undertaking such verification, and legislation has been enacted which will eliminate quarterly wage reporting. For these reasons, recommendations have been made to change the SSI accounting period from a quarterly to a monthly basis.

The committee is not convinced that the arguments in favor of such a change are adequate. For those beneficiaries with stable incomes, the accounting period is immaterial. In addition, beneficiaries who engage in employment or otherwise have varying incomes will likely find that their estimates on a monthly basis are incorrect as often as estimates on a quarterly basis. In fact, quarterly estimates should minimize the impact of income variations better than monthly estimates. While it is true that the quarterly accounting period can make benefits for the first months of the quarter incorrect because of unexpected income received in later months, the same principle applies to a monthly accounting period. An SSI check paid correctly at the beginning of a month would be rendered erroneous if the beneficiary's estimate of his income for that month proves to be incorrect.

Another problem in the administration of the program has been the failure of recipients to report, in a timely way, changes in income or other circumstances which would have an impact on their SSI payment. Present law provides for a reduction in benefits in the case of individuals who do not submit required reports of events and changes in circumstances unless they are without fault or there is good cause for failure or delay in reporting. This provision of law, however, has never been implemented. According to the January–

June 1976 quality control data, more than one-fourth of payment errors in that period are the result of nonreporting by recipients of changes. The overpayments which ensue from failure to make timely reports are often extremely difficult for the Social Security Administration to collect. Repayment may also create hardship and inconvenience for recipients.

Committee proposal.—The committee believes that there is insufficient information to justify the major program and administrative change which a new monthly accounting period would entail. As an example of the confusion which surrounds the accounting period issue, the committee notes that although the Congressional Budget Office projects a savings for such a change, the Social Security Administration estimates that there would be a "not excessive" cost. Both agree that there is, however, very little data on which to base any kind of estimate. The committee believes that if there is to be a change in the accounting period it should be made on the basis of detailed analysis of the effect of the change on the current and prospective caseload and on the workload and administrative procedures of the Social Security Administration. This analysis is not now available. The committee amendment would provide the basis for analysis by requiring the Social Security Administration to conduct experiments using various accounting periods. These experiments should include using retrospective accounting, and various periods of time. At a minimum the accounting periods to be tested should include 1 month and 6 months. Other periods of time may be tested as SSA finds desirable and appropriate in order to provide a full picture of the effects of accounting methodologies on the SSI program.

The committee also believes that an attempt should be made to improve the accuracy of benefit determinations to reduce the difficulties to the program and to individual recipients that now result from overpayment and underpayment of benefits. The committee amendment would therefore also require the Social Security Administration to conduct experiments using various reporting methodologies involving various time periods. These tests should be coordinated with the tests of accounting periods in order to provide a basis for evaluation of the most effective accounting and reporting procedures for use in the SSI program on a nationwide basis. In addition, the committee amendment provides for a test on a pilot basis of a procedure by which each individual receiving Federal SSI payments or federally administered State supplementary payments would make an annual report stating whether or not there had been any changes in his circumstances affecting eligibility or the amount of payments. In this specific pilot test the annual reporting requirement would be timed to occur about 6 months after the annual case redeterminations which are required under current SSA procedures.

The committee intends that the Social Security Administration will keep the committee informed of the kinds and locations of the tests which it plans to undertake and will report regularly on any findings which it may have. Final evaluations, along with any recommendations for legislative changes, are to be submitted to the Congress no later than the end of 1979.

RELATIONSHIP BETWEEN SOCIAL SECURITY AND SSI BENEFITS

(Section 309 of the Bill)

Present law.—A substantial proportion of SSI recipients are also eligible for benefits under the old-age, survivors, and disability insurance program under title II of the Social Security Act. The proportion of dual eligibility can be expected to increase in the future since many of those who are now ineligible for title II benefits are simply so old that their period of work history occurred prior to the time that social security coverage was available. The number of SSI recipients who also receive title II benefits is shown in table 6.

Though the two programs are administered by the same agency, it can sometimes happen that an individual's first check under one program will be delayed. If the SSI check is delayed, retroactive entitlement takes into account the amount of income the individual had from social security. However, if the title II check is delayed, a windfall to the individual can occur since it is not possible to retroactively reduce his SSI benefit beyond the beginning of the current quarter.

Even for the current quarter, court decisions require the Social Security Administration to treat the erroneous SSI payments as overpayments which cannot be collected without first offering the recipient an evidentiary hearing. (If there were a change to a monthly accounting period, this situation would become even more frequent and involve larger windfalls than is the case under present law.)

Committee provision.—Under the committee provision the statute would be amended to provide that an individual's entitlement under the two titles shall be considered as a totality so that payment under either program shall be deemed to be a payment under the other if that is subsequently found to be appropriate. Thus, if payment under title II is delayed so that a higher payment is made under title XVI, the adjustment made in the case of any individual will only be the net difference in total payment. There would, of course, be the proper accounting adjustments to assure that the appropriate amounts were charged to the general fund and the trust funds respectively. Any appropriate reimbursement would also be made to the States where State supplementary benefits are involved.

TABLE 6.—NUMBER AND PERCENT OF PERSONS RECEIVING FEDERALLY ADMINISTERED SSI PAYMENTS WHO ALSO RECEIVE SOCIAL SECURITY (OASDI) BENEFITS AND AVERAGE BENEFIT, BY CATEGORY, SEPTEMBER 1976

Reason for eligibility	Total	With social security benefits		Average monthly social security benefit
		Number	Percent of total	
Total....	4,275,049	2,227,890	52.1	$137.73
Aged.....	2,189,847	1,528,732	69.8	136.92
Blind.....	76,650	26,896	35.1	138.46
Disabled....	2,008,552	672,262	33.5	139.55

INCREASE IN PAYMENTS TO INDIVIDUALS IN MEDICAID INSTITUTIONS

(Section 310 of the Bill)

Present law.—The SSI program provides a reduced allowance of $25 a month to recipients who are institutionalized under circumstances in which the medicaid program is paying, or partly paying, for the costs of their care. This amount is intended to cover personal needs not ordinarily provided through the basic institutional care.

Committee provision.—The $25 payment level was established by the SSI statute enacted in 1973 and has not been increased since that time. In the meantime, recipients eligible for the regular noninstitutional SSI payment have received three payment increases. The committee believes that the approximately 200,000 individuals who are now receiving the reduced payment should also receive an increase in their payments, inasmuch as the cost of personal items they are expected to provide for themselves has increased in the years since the program began. The committee amendment provides for a one-time increase in the payment level of $5 a month. The committee notes that the Administration was requested to provide information for the hearings record on H.R. 7200 as to the adequacy of the existing law allowance and as to its plans for developing information concerning that subject. The response received by the committee consisted of a quotation from a prior and apparently inconclusive study together with a statement that the Administration does not believe that the House-bill provision (for automatically increasing the $25 payment) is "necessarily warranted." It is to be hoped that a more careful examination of the adequacy of the payment, as increased by the committee bill, can be conducted in the future.

EMPLOYMENT OF SSI RECIPIENTS FOR PROGRAM COORDINATION

(Section 311 of the Bill)

Present law.—Prior to the enactment of the supplemental security income program, the individual needing social services, medical assistance, or food stamps ordinarily made application for them at the local welfare office—the same office which was responsible for the basic income maintenance function now handled by the Social Security Administration. Thus, an individual needing both cash assistance and some type of in-kind services or benefits previously could apply for them at the same office and at the same time, whereas he now must visit a Social Security Administration facility to apply for basic cash assistance and the welfare office for social services and food stamps. In some States medicaid eligibility determinations are performed by social security offices, and in others it is a State welfare office function.

Since the SSI program was first implemented there has been considerable concern over the adequacy of existing arrangements for recognizing the needs of SSI recipients for other benefits and services and appropriately referring them to the agencies which can provide them. Each social security district office is required to maintain a referral file of agencies and services so that recipients can be directly advised of sources of other types of assistance. However, although many of the field personnel in social security offices are alert to the

need of individual recipients for services, others may be disinclined to make referrals because they feel that a referral to the welfare office would be fruitless in most cases, because they do not regard this as an important part of their job as social security employees, because they believe they would embarrass the recipients by referring them to "welfare" benefits, or because of other reasons.

The reactions of agencies and organizations outside of the Social Security Administration to this issue are mixed. Some organizations, including some State welfare agencies, strongly feel that the coming of SSI has significantly harmed the ability of the aged, blind, and disabled population to obtain needed benefits and services not provided by the Social Security Administration. Other agencies, also including some State agencies, feel that referral procedures now in effect are adequate. In part, this may reflect differences in the adequacy with which social security offices are handling referral situations, but it also seems to reflect some difference in opinion as to whether social security offices should play a significant referral role.

One method of handling the problem of SSI referrals is through the use of welfare agency personnel stationed in social security district offices. Another approach is the location of social security offices and welfare offices in the same or adjoining buildings to minimize the need for aged, blind, and disabled persons to travel to various places to apply for different benefits. While approaches such as these have been tried with some success, there are limitations on the extent to which they can be used. Social security district or branch offices will frequently serve populations served by more than one welfare agency. Welfare agencies may not find that they can afford to place workers in social security offices. Moreover, even where a welfare department employee is located in a social security office, he will not necessarily see all SSI applicants having a need for services unless the claims representatives and service representatives in the social security office are sufficiently able to recognize these needs and to refer appropriate individuals to him.

Committee provision.— The committee believes that it is unrealistic to expect that the employees of social security field offices can play a major role in the operations of other programs which are the responsibility of State or other non-Federal agencies. The Social Security Administration has traditionally attempted to provide its employees with some training to enable them to make general referrals to other agencies and organizations when claimants exhibit obvious needs for special services or request information concerning other programs. While the committee agrees that such training is appropriate and that the Social Security Administration should continue to improve its capacities in this respect, social security employees cannot as a group be expected to attain thorough familiarity with the different types and conditions of benefits administered by other agencies nor to attain the capacity to comprehensively evaluate the needs of SSI claimants for services. The burden placed upon the capabilities of social security employees to be competent in all the various programs administered by their own agency is, in itself, substantial.

The committee does believe that it is appropriate for the Social Security Administration to cooperate with the States in making arrangements for the stationing of welfare agency employees in social security

field offices, for the dissemination to SSI applicants of appropriate literature concerning the availability of other programs, and for such other general referral and information measures as can be reasonably accommodated. As far as the committee can determine, the Social Security Administration does pursue a policy of providing such cooperation. However, the main job of the Social Security Administration is and ought to remain the accurate and efficient administration of those programs for which it has direct responsibility.

The committee believes, however, that there is reason for concern over the possibility that the existence of a federally administered income support program may have isolated the aged, blind, and disabled to some extent from access to other services available through State and local agencies. In order to assist SSI recipients in learning about and applying for available assistance programs and services, the committee amendment would authorize the Department of Health, Education, and Welfare to pay for the employment, by State and local agencies, of SSI recipients who would be trained to provide information on programs and community resources to persons who apply for SSI. These SSI worker-trainees could serve in social security offices, in local welfare offices, or in other locations convenient to reach the aged, blind and disabled residents in the community. These individuals would be uniquely qualified to understand the problems of SSI applicants and to assess their need for a broad range of programs and services, such as various kinds of medical assistance, or homemaker or adult day care services. The committee amendment would authorize the expenditure of up to $5,000,000 a year, which would be sufficient to fund 1,000 man-years at a maximum payment to an individual of $5,000 a year. The funds would be allocated on the basis of the number of SSI recipients in the State.

MODIFICATION OF REQUIREMENT FOR THIRD-PARTY PAYEE FOR ADDICTS AND ALCOHOLICS

(Section 312 of the Bill)

Present law.—Under present law an SSI recipient who is an addict or alcoholic (1) must be undergoing appropriate treatment, and (2) must have his payments made to a third party interested in his welfare. Specifically, the law provides that the Secretary must make SSI payments with respect to an individual medically determined to be an addict or alcoholic to some other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of the individual. The statute applies this third-party payment requirement to all disabled recipients who are found to be addicts or alcoholics and not only to those who are found to be disabled *because* of their addiction or alcoholism. However, the Social Security Administration has adopted a regulation which applies the payment restrictions only to those individuals whose addiction or alcoholism was the deciding factor in their eligibility for SSI. Since addiction or alcoholism is not ordinarily a basis of disability findings under the SSI program, this decision generally limits the impact of the provision to those relatively few individuals who were grandfathered into the program as addicts or alcoholics from the State programs of aid to the disabled. Thus, as of February 1976, there were 9,729 addicts

and alcoholics who had been transferred from the previous State programs, and only 350 new awards since the beginning of the SSI program in January 1974. Of the total number, 8,696 of the recipients were in New York, 459 in California, and 344 in Maryland. Forty-three States had fewer than 25 disabled alcoholics and drug addicts who were receiving federally administered SSI payments.

The requirement that all these addicts and alcoholics be paid through third parties is being met in only 43 percent of the cases. In 57 percent of the cases the individual is his own payee.

TABLE 7.—SUPPLEMENTAL SECURITY INCOME: NUMBER AND PERCENTAGE DISTRIBUTION BY TYPE OF REPRESENTATIVE PAYEE RECEIVING FEDERALLY ADMINISTERED PAYMENTS ON BEHALF OF PERSONS MEDICALLY DETERMINED TO BE ALCOHOLICS OR DRUG ADDICTS, FEBRUARY 1976

Type of representative payee	Total		Alcoholics		Drug addicts	
	Number	Percent	Number	Percent	Number	Percent
Total.....	10,079	100.0	2,599	100.0	7,480	100.0
Own payee.....	5,749	57.0	1,489	57.3	4,260	57.0
Spouse.....	142	1.4	74	2.8	68	.9
Parent.....	974	9.7	152	5.8	822	11.0
Other relative...	1,218	12.1	389	15.0	829	11.1
Nonrelative [1]....	1,996	19.8	495	19.1	1,501	20.1

[1] Includes institution, social agency, public official and other—attorney, guardian or other interested person.

Source: Department of Health, Education, and Welfare.

Committee provision.—The committee has been informed by the Administration that it has had difficulty in finding third-party payees to accept payment in behalf of addicts and alcoholics. The committee has also been advised that there are some addicts and alcoholics who are sufficiently responsible to handle cash and who would benefit from having the responsibility of handling their own finances. The committee amendment would therefore provide for exclusions from the third-party payee requirement in certain specific situations. Under the committee amendment, if the attending physician of the institution or facility where an individual is undergoing treatment certifies that the direct payment of SSI benefits would be of significant therapeutic value, and that there is substantial reason to believe that he would not misuse or improperly spend the funds, the SSI payments could be made directly to the individual and not through a third party. The committee believes that this change may provide some alleviation of the Administration's difficulties in arranging for third-party payees in certain appropriate cases and at the same time it may prove of value to some SSI recipients.

The committee does not intend, however, that this change in the law should be interpreted in such a way as to justify the continued failure

by the Administration to implement the third-party payee requirement in the law. In addition, the committee notes that the direct payment of SSI benefits to an individual who because of alcoholism or addiction cannot properly manage his funds often imposes unnecessary hardship on that individual himself. The committee thus directs the Social Security Administration to increase its efforts to find third parties who will serve as representative payees for persons determined to be addicts and alcoholics and who will assure that SSI payments will be used in the best interests of the addict or alcoholic. Moreover, the committee amendment requires a continuing determination by the Secretary of the appropriateness of direct payments. In view of the potential for harm to the individual in such cases, the Department is required under this provision to periodically examine this issue and not to view a physician's initial certification as remaining in force indefinitely.

ASSETS SET ASIDE FOR BURIAL NEEDS

(Section 313 of the Bill)

Present law.—Present law provides that SSI recipients may retain liquid assets of up to $1,500, or, in the case of a couple, assets of up to $2,250. In addition, life insurance policies up to a face value of $1,500 are not counted for purposes of the SSI assets limitations. In theory, these provisions allow the aged, blind, and disabled to maintain a small insurance policy which can be used to meet the eventual costs of their funeral expenses and, at the same time, to also maintain a small cash reserve to see them through any emergency situations for which their monthly SSI benefits would be inadequate.

In practice, however, many aged individuals, instead of buying an insurance policy against the expenses that will be occasioned by their death and burial, have elected to set aside funds or other assets for this purpose. The committee staff found in its study of the SSI program that such assets are a frequent cause of informal disallowances for SSI eligibility, since many older people would apparently rather go without the monthly income available from SSI than disturb these assets which they have set aside to assure that the necessary funds will be there to meet their burial requirements. They do not consider this as a reserve which is available to them to meet emergency costs, but rather as an inalienable burial fund which they would touch in no circumstances for any other purpose.

Committee provision.—The committee believes that SSI recipients should have the option of maintaining a reasonable burial reserve if they so choose. The committee amendment would make the $1,500 insurance policy exclusion alternatively available with respect to assets, not exceeding that same $1,500, which are specifically set aside for purposes of meeting the needs associated with the individual's burial. The provision specifies that any amount withdrawn from these assets and used for any other purpose would be treated as unearned income and serve to reduce the recipient's SSI payments. Since, under existing law, applicants can accomplish the same exclusion by purchasing a specific insurance policy, this change does not expand eligibility and should, therefore, have a negligible impact on program costs. In certain cases, however, it would relieve applicants of the necessity to make such a transfer of assets.

EMERGENCY AID TO THE AGED, BLIND, AND DISABLED

(Section 314 of the Bill)

Under the former State programs of aid to the aged, blind, and disabled, States could tailor their monthly aid payments for eligible individuals to the actual circumstances of each applicant. While there was no formal Federal authorization for a separate program of emergency assistance, certain emergency situations could be accommodated by special need allowances incorporated in the grant. In addition, the same agency which handled the basic income support grant also administered any general assistance program providing aid to individuals in circumstances where Federal funding was not available.

The SSI program does not contain the same flexibility to deal with emergency situations as did the former State welfare programs. While it was recognized by Congress that there would have to be some provision for emergency situations, these were necessarily limited since it was not possible to make the SSI program highly responsive to individual circumstances without seriously undermining its intended manner of operation. The legislation does provide that, in emergency circumstances, a $100 advance to applicants can be made at the district office level when it appears that the claimant is eligible and financial emergency exists. This advance can be made only in the case of initial eligibility.

There are a number of emergency situations in which the SSI program does not provide any means of relief. Beyond the provision for a $100 advance to individuals who appear to meet the eligibility requirements and a similar provision allowing benefits on the basis of disability or blindness to be paid for up to 3 months to "presumptively eligible" individuals, the program does not authorize the Social Security Administration to provide for the needs of those whose eligibility determinations are for one reason or another delayed. The SSI law does not make any provision for situations in which a temporary catastrophe befalls the recipient such as a fire which creates extraordinary needs that cannot be met by the regular monthly benefit, or the loss or theft of his SSI benefit payment after he has received and cashed the check.

The SSI program not only does not provide for such cases of individualized emergency needs but originally contained provisions which discouraged the States from undertaking to meet those needs. The statutory rules concerning the counting of income for SSI purposes were such that State benefits of a general or emergency assistance nature (as opposed to regular recurring State supplementary payments) had to be considered as income and therefore served to reduce the SSI benefit amount. (As with other aspects of the SSI program, administrative policy did not entirely conform to the statute in this respect.)

While there is good reason to question whether there existed in many States prior to SSI adequate provision for the emergency needs faced by aged, blind, and disabled persons, the existence of a national income maintenance system which does not adequately address those needs and which contains certain provisions which actually seem to interfere with State efforts to do so has focused attention on the prob-

lem and is a source of some dissatisfaction with the program on the part of those it serves.

Committee provision.—The legislative history shows that Congress intended the supplemental security income program to be a new kind of income maintenance system which would operate efficiently and without undue intrusion into the individual circumstances of its beneficiaries. It was designed to resemble much more the social security insurance programs than the former State welfare programs. Some of the difficulties the program has experienced to date may be attributable to the fact that for a number of reasons and in a number of respects the SSI program has in practice been expected to undertake the close, individualized relationship with its recipient population that was (or was thought to be) characteristic of State welfare programs.

One major reason for the existing situation is that the SSI program in fact plays a dual role. It is a major national income maintenance program for the aged, blind, and disabled as a group; it is also the only means of subsistence for many individual recipients. Consequently, when the program fails to meet their needs, whether because of emergencies not provided for by the program or because of some administrative breakdown, recipients have, in many cases, nowhere else to turn.

One possible alternative which could be considered is to accept the position that the SSI program ought to play such a dual role and to consider changes in the program which would make it more responsive to individual needs. While arguments in favor of such a position can be made, this would appear to represent a very basic change in policy from the original intent of Congress in enacting the SSI program, and it would necessarily involve substantial increases in program and administrative costs and in the size of the Federal work force necessary to properly carry out the program.

On the other hand, the committee recognizes that there is a real need for a mechanism to provide for needs of individuals in cases where emergencies exist. The committee believes that this can best be accomplished through social service agencies at the State and local levels, which would seem to be the agencies best equipped to respond to individual emergency situations. The committee amendment would provide 50 percent Federal matching for State programs of emergency assistance to SSI recipients. The amount authorized would be $10 million in fiscal year 1978 and such amounts as may be provided in annual appropriations acts in subsequent years. In order to qualify for the Federal matching funds, States would be required to have State emergency assistance plans which would specify the types of emergency situations to be provided for and the forms of assistance which may be offered, including money payments, payments in kind, or services. Under the committee provision emergency assistance could be furnished for a period not to exceed 30 days in any 12-month period. Recipients could include persons who are eligible for or recipients of Federal SSI payments and of State supplementary payments, whether administered by the State or by the Federal Government. By providing for the administration of the program by the same agencies which administer the title XX social services program, the committee believes that States will have maximum flexibility in providing the necessary combinations of cash and services to SSI recipients in emergency situations, and also will be able to coordinate State

and local efforts to serve this population group. The committee emphasizes that the intent of this provision is to give some assistance and encouragement to the States in developing programs to meet the emergency needs of aged, blind, and disabled persons which appear to be inadequately addressed at present. The statutory language has intentionally been written in such a way as to give the States broad flexibility in designing and operating these programs.

REPLACEMENT OF LOST OR STOLEN CHECKS

While the committee believes that the Federal SSI program is not well suited to meeting highly individualized circumstances or emergency needs, a somewhat different situation exists when an individual simply does not receive his SSI check because it has become delayed in the mails or has been lost or stolen. In such cases, the responsibility for making prompt replacement of the check properly falls to the agency which originally issued it—the Social Security Administration. While that agency has improved its capability to handle check replacement situations of this type, there still is frequently a delay of days or weeks which can result in significant hardship. The committee has been informed by the Administration that it now has the capability of implementing a procedure for direct replacement at the district office level, a procedure which would be comparable in operation to existing emergency advance payment procedures. The committee directs the Social Security Administration to implement this new procedure as rapidly as possible, at the same time assuring that there are adequate safeguards to minimize incorrect payments.

LIABILITY FOR FEDERAL ERRORS IN ADMINISTERING STATE PROGRAMS

(Section 315 of the Bill)

Present law.—The SSI statute recognized that States would, in some instances at least, desire to provide a higher level of income maintenance for the aged, blind, and disabled than was available under the basic Federal program. To the extent that States elected to administer such additional payments themselves, there would be little involvement of the Federal agency. The statute, however, authorized States to enter into agreements for Federal administration of State supplementary benefits, and actually provided some incentive for them to do so in that no charge would be made for the costs of Federal administration (the incremental administrative costs of adding a State supplement to the basic Federal SSI benefit were expected to be minimal). In addition, a savings clause designed to assure that all States could maintain supplementation up to the levels of assistance in effect in 1972 without added State expense was available only if the affected States agreed to Federal administration. With respect to the grandfathered caseload, the mandatory supplementation requirements added further incentives for States to elect Federal administration.

The SSI statute thus led to a situation in which the Social Security Administration would be responsible for handling and disbursing significant State funds. In practice, 17 States have elected Federal administration of their optional State supplementary benefits (out of 42

States providing such benefits), and an additional 12 States have federally administered mandatory State supplementary benefits. Of the 4.2 million persons receiving federally administered benefits about 40 percent receive a federally administered State supplement and the annual amount of State money being handled by the Social Security Administration in the form of federally administered State supplementation is approximately $1.5 billion. The amount of supplementary payments for fiscal year 1976 for each State is shown in table 8.

TABLE 8.—AMOUNT OF STATE SUPPLEMENTARY PAYMENTS, BY STATE, FISCAL YEAR 1976

[In millions of dollars]

State	State supplementation	
	Federally administered	State administered
Total	$1,395.128	$166.021
Alabama		10.038
Alaska		3.137
Arizona		1.396
Arkansas	1.039	
California	780.897	
Colorado		16.197
Connecticut		8.632
Delaware	.911	
District of Columbia	[1].367	
Florida	.686	[1] 1.131
Georgia	1.877	
Hawaii	4.451	
Idaho		1.826
Illinois	.062	35.618
Indiana	.621	
Iowa	1.736	
Kansas	.340	
Kentucky		9.515
Louisiana	3.416	
Maine	5.870	
Maryland	1.025	
Massachusetts	139.458	
Michigan	56.798	
Minnesota	[2].456	[2] 4.290
Mississippi	.764	

See footnotes at end of table.

TABLE 8.—AMOUNT OF STATE SUPPLEMENTARY PAYMENTS, BY STATE, FISCAL YEAR 1976– Continued

[In millions of dollars]

State	State supplementation	
	Federally administered	State administered
Missouri		22.264
Montana	.363	
Nebraska		2.813
Nevada	2.841	
New Hampshire		1.970
New Jersey	20.122	
New Mexico		(5)
New York	251.048	
North Carolina		16.253
North Dakota		.133
Ohio	1.110	
Oklahoma		23.178
Oregon		5.337
Pennsylvania	45.873	
Rhode Island	5.801	
South Carolina	[2].010	[2].928
South Dakota	[1].184	[1 6].172
Tennessee	.255	
Texas [3]		
Utah	[2].007	[2].013
Vermont	4.358	
Virginia		[4] 1.160
Washington	15.844	
West Virginia		[4].020
Wisconsin	46.241	
Wyoming	.005	
Unknown	.292	

[1] Mandatory State supplementary payments are federally administered and optional State supplementary payments are State administered.

[2] State supplementation program under both Federal administration and State administration during the year.

[3] State supplementary payments not made.

[4] Data partially estimated.

[5] Less than $500.

[6] Excludes data for July–August 1975.

Since the SSI program began there have been numerous disputes between the Social Security Administration and States as to the liability of the States to pay for the costs of federally administered State supplementary benefits.

The question of fiscal liability for incorrect payments has been a difficult issue to deal with. When it enacted the SSI program, the Congress, relying on assurances of executive branch officials and on the Social Security Administration's reputation for efficiency and accuracy, expected that the new program under SSA administration would have a lower incidence of incorrect payments than had been the case when the State welfare agencies were the administering agents. While there would be some degree of error in any program, there did not appear to be any need for providing a specific remedy for States opting for Federal administration since it was presumed that, in addition to the savings from Federal assumption of administrative costs, the States would also experience a savings as a result of a lower error rate.

In practice, the error rate in the SSI program, though gradually improving, has proven to be far higher than was anticipated, and the Department has been under pressure by the States to negotiate a system of shared liability for erroneous payments of State supplementary benefits. Although the concern of the States over the overpayments which have been made in their name by the Social Security Administration is understandable, there is not now in the statute any authorization for the Federal Government to assume the cost of any incorrectly administered State supplementary payments. The only remedy the States have under the statute is to terminate their agreements for Federal administration (six States have for a variety of reasons exercised this option).

Committee provision.—The committee believes that the States should have some recourse other than the resumption of an administrative burden which they abandoned in good faith. The committee amendment would provide a transitional statutory guideline for determining the extent of Federal liability for incorrect State supplementary payments administered by the Federal Government. Under the committee provision, the Federal Government would assume the cost of any federally administered State supplementary payments which are erroneous to the extent that they exceed 4 percent of the total State supplementary payments made in the State. This provision would apply to payments made in fiscal year 1979. Starting with fiscal year 1980, the committee anticipates that the quality of SSI administration will have improved sufficiently to eliminate any further need for Federal assumption of liability for erroneous payments. (It is not the intent of the committee to disturb the existing arrangements which have been worked out in contracts between the States and the Social Security Administration for fiscal years prior to 1979.)

LIABILITY FOR FEDERAL SHARE OF CERTAIN MEDICAID PAYMENTS

(Section 316 of the Bill)

Present law.—The SSI statute authorizes the States to enter into agreements with the Secretary of Health, Education, and Welfare

under which the Social Security Administration determines medicaid eligibility as a part of its process for determining SSI eligibility. Because medicaid eligibility is based on or closely related to SSI eligibility for aged, blind, and disabled persons, this provision seemed to be a reasonable way of avoiding unnecessary duplication of State and Federal administrative efforts and of assuring that people would not have inconsistent determinations made by two different agencies as to whether they met the same eligibility standards. This tie-in between SSI and medicaid has, however, affected in a significant way the fiscal relationships between the States and the Federal Government. To the extent that the Social Security Administration incorrectly finds someone eligible for SSI, or fails to promptly transmit data to the States indicating that an individual is no longer eligible for SSI, a State which relies on the Social Security Administration to determine medicaid eligibility may find itself expending funds for medical assistance which are later found to be incorrect. Under the law, States are responsible for the correctness of payments made under the medical assistance program. In practice, the Department of Health, Education, and Welfare does not require the States to refund the Federal share of incorrect medical assistance payments resulting from such failures on the part of the Social Security Administration.

Committee provision.—The committee expects that as the Social Security Administration works to improve the administrative mechanisms of the SSI program it will focus attention specifically on the problem of incorrect medicaid payments. The committee believes that the current policy of not requiring States to repay the Federal share of such payments is reasonable, and the committee amendment would provide specific statutory basis for this policy.

TREATMENT OF EARNINGS IN SHELTERED WORKSHOPS

(Section 317 of the Bill)

Present law.—Under current interpretations, income received by an SSI recipient who is in a sheltered workshop as part of a rehabilitation program is not considered to be wages and is therefore treated as unearned income. As a result, all remuneration in excess of $20 a month reduces the SSI benefit on a dollar-for-dollar basis. In contrast, income of a recipient in a sheltered workshop who is not in a rehabilitation program is treated as earned income, and the individual is entitled to the earned income disregards ($65 plus one-half of additional earnings). It is estimated by the Department of Health, Education, and Welfare that there are approximately 5,000 individuals now in sheltered workshops who are not able to get the benefit of the earned income disregard provisions.

Committee provision.—The committee believes that participation by SSI recipients in vocational rehabilitation programs should be encouraged and that individuals who participate in sheltered employment as part of a rehabilitation program should be eligible for the work incentive features of the earned income disregards in the SSI law. The committee amendment would eliminate the present discriminatory treatment of these disabled individuals by providing that income received by SSI recipients as remuneration for participation in sheltered workshops be treated as earned income in all cases.

REPORTS TO BE SUBMITTED BY THE SECRETARY OF HEALTH, EDUCATION, AND WELFARE

(Section 318 of the Bill)

Present law.—On January 28, 1975, the committee directed the staff to undertake a study of the supplemental security income program. In undertaking that study, the staff had as its point of reference the enacted statute and the expressed legislative intent underlying the statute. In its report of April 1977 the staff identified two areas in which it concluded that the Department of Health, Education, and Welfare had particular policy and procedural problems which needed to be addressed by that Department in a comprehensive way. First, the staff study found that manpower needs have been poorly assessed with the result that the quality of SSI administration has been seriously below congressional expectations. Second, it found that HEW policy formulation procedures and practices were such that policies had been adopted which were at variance with law and expressed congressional intent in a number of areas.

Committee provision.—The committee amendment would require the Secretary to report to the Congress by April 1, 1978:

1. The estimated manpower needs of the Social Security Administration for fiscal years 1979, 1980, and 1981. The report is to include a description of all assumptions underlying the estimates, a discussion of the administrative goals which SSA has established for those years, and a projection of the personnel needed to conduct full annual (or, where appropriate, more frequent) redeterminations of all individuals receiving SSI.

2. Plans and recommendations for restoring the statutory integrity of the SSI program, based on a review of SSI policies and of statute and legislative history, with particular reference to the policy issues raised in the staff report. The Secretary's report is to outline the steps the Department will take to bring the SSI program into compliance with the law, and recommended legislative changes in any areas in which the Department determines that compliance with existing law is not possible or desirable.

The committee notes that, in this amendment, it is raising serious questions as to the validity under the statute of significant elements of administrative policy. A serious study of these areas is called for and not simply a defensive assertion of broad secretarial discretion.

D. Fiscal Relief for State and Local Welfare Costs

(Section 401 of the Bill)

Present law.—The AFDC statute provides Federal matching of State AFDC cash maintenance payments at a rate of 50 to 83 percent, depending upon the State's per capita income. Overall, on a nationwide basis, the Federal Government provided about 54 percent of the funds for AFDC payments in fiscal year 1976, and the States and localities provided about 46 percent.

Between 1973 and 1977, the cost of the AFDC program to States and localities increased from about $3.4 billion to $5.2 billion, or about a 52-percent increase. In that same period the costs to States and localities of the AFDC, supplemental security income, social services, medicaid and general assistance programs combined grew from $10.3 billion to nearly $17.8 billion, or a 62-percent increase.

These statistics testify to the burden of the major welfare programs on State and local governments, a burden which has reached disturbing proportions, especially in certain areas of the country. The table below shows the distribution of expenditures for AFDC payments for each State:

TABLE 9.—AID TO FAMILIES WITH DEPENDENT CHILDREN (AFDC), TOTAL MAINTENANCE ASSISTANCE PAYMENTS, FISCAL YEAR 1976

State	Total payments computable for Federal funding	Federal funds (unadjusted)	Local funds	State funds	Percentage		
					Federal funds	Local funds	State funds
Alabama	$61,864,423	$46,923,718	.....	$14,940,705	75.8	0	24.2
Alaska	13,457,182	6,623,664	.....	6,833,518	49.2	0	50.8
Arizona	33,977,273	18,895,181	.....	15,082,092	55.6	0	44.4
Arkansas	50,159,256	37,418,805	.....	12,740,451	74.6	0	25.4
California	1,424,692,553	712,346,276	$253,580,487	458,765,790	50.0	17.8	32.2
Colorado	83,227,441	45,517,087	16,700,968	21,009,386	54.7	20.1	25.2
Connecticut	131,786,271	65,893,135	.....	65,893,136	50.0	0	50.0
Delaware	23,649,023	11,824,511	.....	11,824,512	50.0	0	50.0
District of Columbia	91,865,652	45,932,825	.....	45,932,827	50.0	0	50.0
Florida	120,436,323	68,315,478	.....	52,120,845	56.7	0	43.3
Georgia	122,679,985	90,120,035	.....	32,559,950	73.5	0	26.5
Guam [1]	1,511,650	755,825	.....	755,825	50.0	0	50.0
Hawaii	64,632,077	32,316,039	.....	32,316,038	50.0	0	50.0
Idaho	19,796,706	13,497,394	.....	6,299,312	68.2	0	31.8
Illinois	720,065,139	358,715,572	.....	361,349,567	49.8	0	50.2
Indiana	115,583,003	66,425,552	20,351,153	28,806,298	57.5	17.6	24.9
Iowa	98,783,931	56,435,260	.....	42,348,671	57.1	0	42.9
Kansas	67,602,756	36,519,009	.....	31,083,747	54.0	0	46.0
Kentucky	132,730,945	94,730,076	.....	38,000,869	71.4	0	28.6
Louisiana	98,429,037	71,272,467	.....	27,156,570	72.4	0	27.6
Maine	46,662,236	32,943,539	.....	13,718,697	70.6	0	29.4
Maryland	154,441,383	77,220,692	4,413,052	72,807,639	50.0	2.9	47.1
Massachusetts	415,121,135	207,560,568	.....	207,560,567	50.0	0	50.0
Michigan	746,719,100	373,359,550	.....	373,359,550	50.0	0	50.0
Minnesota	156,149,764	88,757,624	29,087,774	38,304,366	56.9	18.6	24.5

Mississippi	32,017,662	26,504,646		5,513,016	82.8	0	17.2
Missouri	140,017,934	85,774,453		54,243,481	61.3	0	38.7
Montana	12,786,884	8,082,589	1,008,552	3,695,743	63.2	7.9	28.9
Nebraska	28,780,341	15,998,096		12,782,245	55.6	0	44.4
Nevada	10,317,578	5,158,789		5,158,789	50.0	0	50.0
New Hampshire	23,673,490	14,270,380	6,700	9,396,410	60.2		39.7
New Jersey	426,793,857	213,396,928	52,226,857	161,170,072	50.0	12.2	37.8
New Mexico	32,125,612	23,544,860		8,580,752	73.3	0	26.7
New York	1,563,184,768	766,768,978	428,746,351	367,669,439	49.1	27.4	23.5
North Carolina	123,889,145	84,281,786	19,711,194	19,896,165	68.0	16.0	16.0
North Dakota	13,122,019	7,556,970	1,044,992	4,520,057	57.6	8.0	34.4
Ohio	446,319,654	242,753,261		203,566,393	54.4	0	45.6
Oklahoma	65,506,367	44,164,394		21,341,973	67.4	0	32.6
Oregon	113,521,471	67,023,078	1,165	46,497,228	59.0		41.0
Pennsylvania	650,945,260	360,558,579		290,386,681	55.4	0	44.6
Puerto Rico	24,171,922	12,085,960		12,085,962	50.0	0	50.0
Rhode Island	51,270,478	28,993,455		22,277,023	56.5	0	43.5
South Carolina	46,352,487	35,670,249		10,682,238	77.0	0	23.0
South Dakota	20,140,672	13,540,573		6,600,099	67.2	0	32.8
Tennessee	85,756,646	62,722,396		23,034,250	73.1	0	26.9
Texas	137,686,030	100,157,072		37,528,958	72.7	0	27.3
Utah	35,237,274	24,680,187		10,557,087	70.0	0	30.0
Vermont	26,538,100	18,528,902		8,009,198	70.0	0	30.0
Virgin Islands	1,849,649	924,824		924,825	50.0	0	50.0
Virginia	138,678,345	80,904,947	1,462,344	56,311,054	58.3	1.1	40.6
Washington	160,546,774	86,245,728		74,301,046	53.7	0	46.3
West Virginia	52,466,290	37,671,723		14,794,567	71.8	0	28.2
Wisconsin	210,875,774	126,335,680		84,540,094	59.9	0	40.1
Wyoming	4,900,181	2,986,169	684,505	1,229,507	60.9	14.0	25.1
Total	9,675,496,908	5,257,605,534	829,026,094	3,588,865,280	54.3	8.6	37.1

[1] The sum of $755,825 was reported by Guam as a *local* expenditure; but is reported here as a *State* (territorial) expenditure. Adjustments have been made for errors in the printed report.

Source: Office of Financial Management. Division of Finance. Fiscal year 1976 State expenditures for public assistance programs approved under titles I, IV–A, X, IV, XVI, XIX, XX of the Social Security Act. (SRS) 77–04023. This report is compiled from State expenditure reports submitted quarterly by States.

Committee provision.—The committee bill includes a number of provisions which, over the long term, should assist the States in bringing their welfare costs under greater control. The committee is convinced, however, that in the meantime State and local governments should be given some immediate relief from their fiscal burden.

Since one of the major elements of State and local welfare costs is the AFDC program, the committee bill provides that half of the $1 billion fiscal relief payment would be allocated among the States in the same proportion as AFDC expenditures for December 1976. However, State and local welfare costs also arise from a variety of other programs which provide assistance and services to the needy. The distribution of costs under these other programs does not necessarily follow the same pattern as AFDC. The committee believes it can most appropriately recognize other elements of the welfare burden on States and localities by utilizing the general revenue sharing formula for allocating the other half of the $1 billion. The committee recognizes that States and local governments have been led to expect that the Federal Government would provide them with some fiscal relief from their welfare costs. The committee believes that the amount provided in this bill represents a significant step in this direction, taking into account the needs of the States and localities as well as the fiscal situation of the Federal Government.

Although the amount of fiscal relief provided in fiscal year 1978 by the amendment would be less than 10 percent of State and local expenditures for AFDC in 1978, the committee believes that the amount represents a reasonable compromise between the needs of the States and localities and the fiscal limitations of the Federal Government. The committee also believes that the provisions which relate a portion of the money to be paid to the States and localities (in 1979) to improvements in AFDC error rates represent sound public policy. The committee provisions give the States a strong incentive to improve the administration of their programs and to assure that those needy persons who are most in need of help are indeed the persons who will receive it.

Overall, the committee amendment makes available up to $1 billion in additional Federal funding. This one-time provision would mandate payments in two installments. The funds would be distributed according to a formula in which half of the allocation would be based on December 1976 AFDC costs and half would be based on the revenue sharing formula. The first installment would be paid as promptly as possible after October 1, 1977, and would total $500 million. Another amount, up to $500 million, would be payable as of October 1, 1978. For a State to receive its full share of the October 1, 1978 payment, however, it would have to demonstrate that it had reduced its AFDC payment error rate to 4 percent or less for the second period of January–June 1978. States which had not reached a 4-percent or less payment error rate during this quality control sampling period would be entitled to some payment, depending on the degree of their progress toward the 4-percent rate since the base period. The State could select the base period which would be most advantageous to it, either the July–December 1974 or the January–June 1975 quality control measurement period. If, for example, a State had a 10-percent error rate in the base period and had reduced that error rate to 6 percent as of

January–June 1978, the State would receive a payment on October 1, 1978, equal to two-thirds of the fiscal relief payment it had received on October 1, 1977—since it had progressed two-thirds of the way toward the 4-percent goal.

Although in most States the cost of the non-Federal share of AFDC is borne entirely by the State, a number of States require substantial contribution by localities to the cost of the program. States reporting local contributions ranging from 1 to 27 percent of the cost of AFDC maintenance payments in fiscal year 1976 include: California, Colorado, Indiana, Maryland, Minnesota, Montana, New Jersey, New York, North Carolina, North Dakota, Virginia, and Wyoming. Localities in these States can expect to benefit from the provision in the committee bill which requires the States to pass the fiscal relief through to localities in any case where local governments pay part of the program's costs. However, States would not be required to pass through an amount in excess of 90 percent of the AFDC costs for which the local government was otherwise responsible.

Although the fiscal relief provisions of the committee bill would be computed under a formula related in part to the AFDC program and would be provided to the States in the form of increased funding for that program, the committee wishes to make clear that it views these provisions as an attempt to provide some relief for the overall welfare burden faced by the States. That burden falls not only on the AFDC program but also in the areas of aid to the aged, blind, and disabled in States which supplement the SSI program, in general assistance, and in programs of social and child welfare services.

The committee is aware that the administration intends to change the quality control periods to correspond more closely with the new Federal fiscal year. It expects, however, that sufficient data will be collected to provide quality control findings for the January–June 1978 period even though that period may overlap with the new fiscal year sampling period of April–September 1978.

Table 10 shows how the fiscal relief payment under the bill would be distributed among the States.

TABLE 10.- FISCAL RELIEF FOR STATES UNDER COMMITTEE BILL

[Dollars in thousands]

State	Percentage distribution	State fiscal relief payment, October 1977	Error rate in cash payments (percent)			Percent progress toward 4 percent error rate	Share of October 1978 already achieved
			July-December 1974	January-June 1975	July-December 1976		
Alabama	1.2	$5,829	11.2	8.6	6.0	72.2	$4,209
Alaska	.2	989	11.2	9.4	12.5	.....	.....
Arizona	.7	3,494	17.5	18.0	12.4	40.0	1,397
Arkansas	.7	3,663	5.3	6.7	7.3	.....	.....
California	13.5	67,501	9.2	8.4	4.7	86.5	58,388
Colorado	1.0	4,734	10.5	10.0	7.5	46.2	2,187
Connecticut	1.3	6,603	8.7	9.1	7.6	29.4	1,941
Delaware	.3	1,398	16.1	18.3	9.5	61.5	860
District of Columbia	.6	3,222	17.0	18.6	19.8	.....	.....
Florida	2.1	10,565	16.2	12.7	7.0	75.4	7,966
Georgia	1.6	7,855	18.4	18.3	12.2	43.1	3,386
Guam	(*)	126	.....	.....	.....	.....	.....
Hawaii	.6	3,043	11.4	13.4	9.4	42.6	1,296
Idaho	.3	1,368	4.9	6.0	3.8	100.0	1,368
Illinois	6.2	31,068	23.8	19.0	12.1	59.1	18,361
Indiana	1.6	8,119	6.7	4.5	2.3	100.0	8,119
Iowa	.1	5,209	11.9	12.0	11.0	12.5	651
Kansas	.8	4,005	15.5	13.8	5.6	86.1	3,448
Kentucky	1.5	7,607	9.3	11.1	6.2	69.0	5,249
Louisiana	1.6	8,011	12.2	7.4	8.5	45.1	3,613

Maine	.5	2,622	11.7	16.4	11.6	38.7	1,015
Maryland	1.8	8,742	20.1	17.7	11.5	53.4	4,668
Massachusetts	3.8	19,176	17.9	19.8	12.0	49.4	9,473
Michigan	5.6	28,132	14.7	13.7	9.2	51.4	14,460
Minnesota	1.7	8,613	11.8	7.9	5.8	76.9	6,624
Mississippi	.9	4,374	5.3	5.3	9.2	.....	.....
Missouri	1.7	8,369	13.7	11.2	10.5	33.0	2,762
Montana	.2	1,194	14.4	21.7	13.3	47.5	567
Nebraska	.4	2,197	16.6	8.7	6.9	77.0	1,692
Nevada	.2	831	.4	.5	.5	100.0	831
New Hampshire	.3	1,307	24.1	15.3	8.5	77.6	1,014
New Jersey	3.7	18,585	8.2	6.7	5.4	66.7	12,396
New Mexico	.5	2,464	6.3	6.0	5.4	39.1	963
New York	14.2	70,750	21.7	15.4	12.1	54.2	38,346
North Carolina	1.9	9,366	11.9	7.9	6.7	65.8	6,163
North Dakota	.2	880	2.0	.8	3.4	70.0	616
Ohio	4.2	20,861	15.9	17.7	11.3	46.7	9,742
Oklahoma	.9	4,618	3.5	3.5	3.1	100.0	4,618
Oregon	1.2	5,932	8.3	8.1	7.9	9.3	552
Pennsylvania	6.0	30,055	13.6	13.3	9.3	44.8	13,465
Puerto Rico	.2	1,202	16.2	12.6	8.9	59.8	719
Rhode Island	.5	2,420	9.8	7.9	3.8	100.0	2,420
South Carolina	.9	4,455	12.5	9.9	8.5	47.1	2,098
South Dakota	.2	1,220	5.7	9.9	8.5	23.7	289
Tennessee	1.3	6,617	12.7	2.5	5.3	85.1	5,631

See footnote p. 72.

TABLE 10.—FISCAL RELIEF FOR STATES UNDER COMMITTEE BILL -Continued

[Dollars in thousands]

State	Percentage distribution	State fiscal relief payment, October 1977	Error rate in cash payments (percent)			Percent progress toward 4 percent error rate	Share of October 1978 already achieved
			July-December 1974	January-June 1975	July-December 1976		
Texas	3.1	15,548	7.7	5.1	5.4	62.2	9,670
Utah	.5	2,310	8.4	10.6	8.1	37.9	876
Vermont	.3	1,291	7.9	9.2	6.7	48.1	621
Virgin Islands	(*)	87	12.8	21.1	16.4	27.5	24
Virginia	1.7	8,486	9.0	7.5	6.4	52.0	4,413
Washington	1.5	7,292	6.4	5.5	5.4	41.7	3,041
West Virginia	.7	3,570	5.5	4.5	4.9	40.0	1,428
Wisconsin	2.3	11,461	7.7	9.0	3.9	100.0	11,461
Wyoming	.1	583	11.9	9.0	4.0	100.0	583
Total	100.0	500,000					295,680

*Less than .05 percent.

E. Provisions Related to the Administration of the Program of Aid to Families With Dependent Children

QUALITY CONTROL AND INCENTIVES TO REDUCE ERRORS

(Section 501 of the Bill)

Background.—For at least the last 25 years there has been recognition at the Federal level of the need for a program to reduce errors in the Federal-State public assistance programs. "Quality control" techniques were first used on a limited basis in 1952. However, at that time they were limited to periodic Federal reviews of samples of case records. No verification was made of the information in the case file, and full field investigations were not part of the system. As the result of a nationwide study in the early 1960's that indicated widespread ineligibility in some States, the Department of Health, Education, and Welfare developed a new and expanded quality control system to be implemented by January 1964 in all States for all public assistance programs. However, this new system produced little in the way of results, and the quality control program underwent major revision again in 1970. Basic changes made at that time included the use of field investigations, requirements on States for reporting of results, the establishment of acceptable error levels, and implementation of corrective actions. The 1970 revision in fact set into place most of the features that are part of the current quality control program. They did not include any provision for fiscal sanctions or penalties for States which failed to meet the designated tolerance level error rates. Only corrective action was required.

Both the States and the Department of Health, Education, and Welfare showed a lack of initiative in implementing the new system. The Department delayed in hiring a Federal quality control staff, and there was a parallel delay in the development of State staffs. The reason most frequently cited for the delay in the implementation of the 1970 quality control system has been that, at the Federal level at least, interest was concentrated on "welfare reform" efforts, with the view that a new system would make quality control obsolete. However, in 1973 HEW issued a new set of quality control regulations for AFDC. They differed from the 1970 rules in one major aspect—they set forth a procedure by which the Department would not match portions of State claims for AFDC payments based on the extent to which the State's error rates exceeded the acceptable Federal tolerance levels. These levels were set at 3 percent for ineligible cases, 5 percent for overpaid cases, and 5 percent for underpaid cases.

The legislative authority cited by the Department for its quality control program is in the following sections of the Social Security Act:

> "Sec. 402. (a) A State plan for aid and services to needy families with children must—
>
> ". . . (5) provide such methods of administration . . . as are found by the Secretary [of Health, Education, and Welfare] to be necessary for the proper and efficient operation of the plan . . .
>
> "Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children . . .

". . . (1) . . . an amount equal to [specific proportions] of the total amounts expended . . . as aid to families with dependent children under the State plan . . .

"Sec. 1102. The Secretary of the Treasury, the Secretary of Labor, and the Secretary of Health, Education, and Welfare, respectively, shall make and publish such rules and regulations, not inconsistent with this Act, as may be necessary to the efficient administration of the functions with which each is charged under this Act."

The error measurement and corrective action components of the quality control program which rest on the above authority have not been questioned. As was stated in the May 1976 Federal district court decision (*Maryland* v. *Mathews*), "plaintiffs assert that they do not question HEW's right to set quality controls." However, the legality of the "disallowance" or "fiscal sanction" provision for limiting Federal matching with respect to State claims has been challenged. In the above cited case the judge ruled that "under the Secretary's rulemaking power to assure the efficient administration of the [Social Security Act], it can be concluded that a regulation establishing a withholding of Federal financial participation in a specified amount set by a tolerance level is consistent with the Act." However, the remainder of the decision invalidated the disallowance regulations based on the unreasonableness of the "tolerance levels" used in determining the extent of any disallowance. As a result of the court decision, fiscal sanctions have never been applied and are no longer a part of the Federal quality control regulations.

Despite the controversy that has existed in the last few years over the penalty aspects of the quality control program, the committee believes that the program has been responsible for significant reductions in State AFDC error rates since 1973. The national average has fallen from a 42.6-percent case error rate and a 16.5-percent payment error rate for the period April–September 1973 to a case error rate of 23.2 percent and a payment error rate of 8.5 percent for July–December 1976. Tables 11 and 12 show these changes in error rates for each State.

TABLE 11.—AFDC—CHANGE IN CASE ERROR RATES, JULY TO DECEMBER 1976 OVER APRIL TO SEPTEMBER 1973 [1]

State	Cases with errors as a percent of total cases											
	Combined			Ineligible			Eligible but overpaid			Eligible but underpaid		
	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change
U.S. average [2]	42.3	23.2	−45.2	10.6	5.3	−50.0	23.7	13.1	−44.7	8.1	4.9	−39.5
Alabama	33.5	17.0	−49.3	10.2	3.7	−63.7	13.4	8.2	−38.8	9.9	5.1	−48.5
Alaska	37.5	26.9	−28.5	17.9	9.8	−45.3	13.8	13.0	−5.8	5.8	4.0	−31.0
Arizona	42.9	26.5	−38.2	8.9	8.6	−3.4	25.8	13.1	−49.2	8.2	4.8	−41.5
Arkansas	16.6	23.2	+39.8	2.2	4.4	+100.0	7.1	11.8	+66.2	7.3	6.9	−5.5
California	34.1	17.1	−49.9	8.4	2.5	−70.2	17.8	9.8	−44.9	7.9	4.8	−39.2
Colorado	26.8	17.1	−36.2	3.9	5.2	+33.3	16.2	10.1	−37.7	6.7	1.9	−71.6
Connecticut	30.9	20.0	−35.3	6.9	4.9	−29.0	18.9	10.7	−43.4	5.1	4.3	−15.7
Delaware	55.5	38.0	−31.5	15.5	6.4	−58.7	31.5	13.2	−58.1	8.5	18.4	+116.5
District of Columbia	39.8	45.0	+13.1	10.7	15.0	+40.2	25.4	23.2	−8.7	3.6	6.7	+86.1
Florida	46.2	15.7	−66.0	10.1	4.0	−60.4	26.3	9.1	−65.4	9.8	2.7	−72.4
Georgia	44.2	24.1	−45.5	7.5	8.7	+16.0	25.9	11.0	−57.5	10.9	4.4	−59.6
Hawaii	31.3	33.2	+6.1	4.6	5.8	+26.1	20.6	23.1	+12.1	6.1	4.4	−27.9
Idaho	23.0	22.9	−.4	5.8	1.3	−77.6	15.3	12.1	−20.9	1.9	9.5	+400.0
Illinois	60.9	27.4	−55.0	12.5	7.1	−43.2	37.7	17.8	−52.8	10.8	2.5	−76.9
Indiana	34.0	7.8	−77.1	8.4	.9	−89.3	20.7	5.0	−75.8	5.0	1.9	−62.0
Iowa	39.6	30.1	−24.0	10.4	7.9	−24.0	21.0	18.0	−14.3	8.2	4.3	−47.6
Kansas	45.4	17.3	−61.9	10.3	3.1	−69.9	26.0	11.2	−56.9	9.2	3.1	−66.3
Kentucky	48.5	17.5	−63.9	10.1	3.9	−61.4	29.8	9.7	−67.4	8.6	3.8	−55.8
Louisiana	41.3	18.1	−56.2	14.8	5.8	−60.8	21.1	9.8	−53.6	5.4	2.6	−51.9
Maine	15.2	29.2	+92.1	4.6	6.2	+34.8	9.0	18.6	+106.7	1.6	4.4	+175.0

See footnotes on p. 77.

TABLE 11.—AFDC—CHANGE IN CASE ERROR RATES, JULY TO DECEMBER 1976 OVER APRIL TO SEPTEMBER 1973 [1]—Continued

State	Cases with errors as a percent of total cases											
	Combined			Ineligible			Eligible but overpaid			Eligible but underpaid		
	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change
Maryland	53.4	29.1	−45.5	14.7	7.6	−48.3	28.5	15.9	−44.2	10.2	5.7	−44.1
Massachusetts	54.4	28.6	−47.4	10.8	8.2	−24.1	30.6	17.8	−41.8	13.1	2.7	−79.4
Michigan	33.6	31.0	−7.7	6.3	4.5	−28.6	21.7	19.2	−11.5	5.5	7.3	+32.7
Minnesota	46.8	15.7	−66.5	7.0	3.8	−45.7	27.7	8.8	−68.2	12.0	3.2	−73.3
Mississippi	17.5	24.1	+37.7	2.8	6.8	+142.9	8.8	11.8	+34.1	5.9	5.6	−5.1
Missouri	26.9	22.1	−17.8	7.6	7.1	−6.6	14.8	10.2	−31.1	4.4	4.8	+9.1
Montana	36.1	23.4	−35.2	10.3	3.6	−65.0	20.6	15.2	−26.2	5.2	4.5	−13.5
Nebraska	20.6	21.3	+3.4	7.6	4.3	−43.4	11.6	9.5	−18.1	1.4	7.5	+435.7
Nevada	16.9	2.5	−85.2	2.6		−100.0	8.5	1.9	−77.6	5.8	.6	−89.7
New Hampshire	60.9	32.5	−46.6	12.7	4.4	−65.4	40.6	18.6	−54.2	7.5	9.5	+26.7
New Jersey	31.4	20.4	−35.0	4.9	2.7	−44.9	21.1	12.6	−40.3	5.3	5.1	−3.8
New Mexico	21.2	16.4	−22.6	4.3	3.5	−18.6	11.9	8.8	−26.1	5.0	4.1	−18.0
New York	61.6	35.7	−42.0	18.2	8.1	−55.5	33.0	17.8	−46.1	10.4	9.8	−5.8
North Carolina	48.1	23.8	−50.5	7.9	3.0	−62.0	21.6	13.6	−37.0	18.6	7.2	−61.3
North Dakota	12.9	13.4	+3.9		3.3	(3)	8.3	7.7	−7.2	4.6	2.4	−47.8

Ohio	51.6	20.7	−59.9	14.2	7.8	−45.1	29.5	10.7	−63.7	8.0	2.2	−72.5
Oklahoma	20.5	7.3	−64.4	4.1	1.2	−70.7	13.5	4.7	−65.2	2.9	1.4	−51.7
Oregon	25.1	27.1	+8.0	6.3	3.8	−39.7	16.9	17.3	+2.4	1.8	5.9	+227.8
Pennsylvania	51.6	25.4	−50.8	17.9	5.8	−67.6	26.7	16.8	−37.1	7.0	2.9	−58.6
Puerto Rico	44.0	26.0	−40.9	16.4	4.7	−71.3	19.9	14.4	−27.6	7.7	7.0	−9.1
Rhode Island	30.4	15.7	−48.4	5.6	2.6	−53.6	20.3	8.5	−58.1	4.6	4.6	..
South Carolina	47.4	24.9	−47.5	9.7	4.6	−52.6	26.7	13.6	−49.1	11.0	6.7	−39.1
South Dakota	20.7	21.1	+1.9	3.1	3.3	+6.5	14.9	12.0	−19.5	2.6	5.9	+126.9
Tennessee	30.9	17.9	−42.1	9.7	5.3	−45.4	14.3	8.6	−39.9	6.9	4.0	−42.0
Texas	30.8	10.4	−66.2	10.4	3.6	−65.4	16.9	5.1	−69.8	3.5	1.7	−51.4
Utah	24.4	16.4	−32.8	6.8	5.3	−22.1	13.6	7.2	−47.1	3.9	3.9	..
Vermont	42.2	26.4	−37.4	9.1	2.9	−68.1	27.2	20.2	−25.7	6.0	3.4	−43.3
Virgin Islands	35.5	26.7	−24.8	5.8	11.3	+94.8	15.2	8.7	−42.8	14.5	6.7	−53.8
Virginia	52.1	20.0	−61.6	7.0	4.3	−38.6	29.3	10.4	−64.5	15.9	5.3	−66.7
Washington	18.9	17.4	−7.9	5.4	3.4	−37.0	10.8	11.3	+4.6	2.7	2.8	+3.7
West Virginia	23.0	13.2	−42.6	6.7	2.9	−56.7	12.4	8.0	−35.5	3.9	2.2	−43.6
Wisconsin	38.7	19.1	−50.6	4.7	2.6	−44.7	18.9	10.8	−42.9	15.0	5.8	−61.3
Wyoming	32.2	14.2	−55.9	8.5	3.2	−62.4	14.6	7.1	−51.4	9.1	3.9	−57.1

[1] Based on reviews of statistically reliable samples of approximately 45,000 cases in each 6-mo reporting period from an average national caseload of 3,400,000 families. Data were computed by a statistical regression method and may, therefore, differ from those previously shown.

[2] Weighted average.
[3] Not computable.

Source: U.S. Department of Health, Education, and Welfare.

TABLE 12.—AFDC—CHANGE IN PAYMENT ERROR RATES, JULY TO DECEMBER 1976 OVER APRIL TO SEPTEMBER 1973 [1]

State	Amount of payment errors as a percent of total payments											
	Ineligible and eligible overpaid			Ineligible			Eligible but overpaid			Eligible but underpaid		
	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change	April to September 1973	July to December 1976	Percent change
U.S. average [2]	16.5	8.5	−48.5	9.1	4.6	−49.5	7.4	3.9	−47.3	1.5	.9	−40.0
Alabama	15.1	6.0	−60.3	9.6	2.9	−69.8	5.5	3.1	−43.6	6.5	1.4	−78.5
Alaska	23.1	12.5	−45.9	15.9	9.3	−41.5	6.4	3.2	−50.0	.9	.8	−11.1
Arizona	15.3	12.4	−19.0	7.5	8.2	+9.3	7.7	4.2	−45.5	1.5	1.2	−20.0
Arkansas	3.6	7.3	+102.8	1.8	3.2	+77.8	1.8	4.1	+127.8	1.9	2.2	+15.8
California	12.3	4.7	−61.8	6.9	2.2	−68.1	5.4	2.5	−53.7	1.4	.8	−42.9
Colorado	7.3	7.5	+2.7	2.3	4.1	+78.3	5.1	3.3	−35.3	1.3	.4	−69.2
Connecticut	10.8	7.6	−29.6	5.6	4.4	−21.4	5.2	3.2	−38.5	1.1	.6	−45.5
Delaware	19.6	9.5	−51.5	9.9	6.5	−34.3	9.7	3.0	−69.1	1.5	2.8	+86.7
District of Columbia	18.0	19.8	+10.0	9.8	12.7	+29.6	8.2	7.1	−13.4	.4	1.1	+175.0
Florida	18.8	7.0	−62.8	7.9	3.8	−51.9	10.9	3.2	−70.6	2.5	.7	−72.0
Georgia	14.9	12.2	−18.1	5.1	7.6	+49.0	9.8	4.6	−53.1	2.8	1.1	−60.7
Hawaii	11.2	9.4	−16.1	4.6	5.9	+28.3	6.7	3.5	−47.8	1.3	.6	−53.8
Idaho	9.9	3.8	−61.6	6.3	.4	−93.7	3.6	3.4	−5.6	.3	.9	+200.0
Illinois	22.4	12.1	−46.0	10.9	5.2	−52.3	11.5	6.9	−40.0	1.3	.7	−46.2
Indiana	13.2	2.3	−82.6	7.1	.7	−90.1	6.0	1.6	−73.3	1.0	.2	−80.0
Iowa	15.7	11.0	−29.9	8.3	6.2	−25.3	7.3	4.7	−35.6	1.7	.6	−64.7
Kansas	15.3	5.6	−63.4	8.5	2.6	−69.4	6.7	3.0	−55.2	1.7	.6	−64.7
Kentucky	18.3	6.2	−66.1	7.9	3.2	−59.5	10.4	3.0	−71.2	1.1	.5	−54.5
Louisiana	21.2	8.5	−59.9	13.6	5.0	−63.2	7.6	3.6	−52.6	1.1	.5	−54.5
Maine	7.1	11.6	+63.4	4.1	5.8	+41.5	3.0	5.8	+93.3	.5	.7	+40.0
Maryland	23.0	11.5	−50.0	13.1	6.6	−49.6	9.9	4.8	−51.5	2.0	1.2	−40.0
Massachusetts	15.9	12.0	−24.5	8.5	7.6	−10.6	7.4	4.4	−40.5	.9	.6	−33.3
Michigan	11.4	9.2	−19.3	5.9	4.3	−27.1	5.4	4.8	−11.1	.7	.8	+14.3

Minnesota	9.4	5.8	−38.3	5.0	3.4	−32.0	4.4	2.4	−45.5	1.4	.3	-78.6
Mississippi	5.2	9.2	+76.9	2.0	4.6	+130.0	3.2	4.6	+43.7	1.9	2.2	+15.8
Missouri	12.3	10.5	−14.6	6.8	7.1	+4.4	5.5	3.4	−38.2	1.4	1.2	−14.3
Montana	16.9	13.3	−21.3	7.8	3.9	−50.0	9.0	9.4	+4.4	1.4	2.2	+57.1
Nebraska	8.6	6.9	−19.8	5.4	3.4	−37.0	3.2	3.5	+9.4	(3)	1.4	(4)
Nevada	3.5	.5	−85.7	1.5		−100.0	2.0	.5	−75.0	.9	.1	−88.9
New Hampshire	21.4	8.5	−60.3	10.0	4.0	−60.0	11.4	4.6	−59.6	1.3	.6	−53.8
New Jersey	9.4	5.4	−42.6	4.0	2.0	−50.0	5.4	3.4	−37.0	.9	.7	−22.2
New Mexico	6.5	5.4	−16.9	2.5	3.4	+36.0	4.0	2.0	−50.0	1.2	.7	−41.7
New York	26.5	12.1	−54.3	16.4	7.2	−56.1	10.1	4.9	−51.5	1.6	1.1	−31.3
North Carolina	13.2	6.7	−49.2	6.6	2.6	−60.6	6.5	4.0	−38.5	3.9	1.5	−61.5
North Dakota	2.1	3.4	+61.9		1.7	(4)	2.1	1.7	−19.0	.7	.2	−71.4
Ohio	21.7	11.3	−47.9	11.5	7.3	−36.5	10.2	4.0	−60.8	1.0	.5	−50.0
Oklahoma	8.1	3.1	−61.7	3.0	1.0	−66.7	5.1	2.1	−58.8	.6	.4	−33.3
Oregon	10.5	7.9	−24.8	6.0	3.6	−40.0	4.5	4.3	−4.4	.7	.6	−14.3
Pennsylvania	24.6	9.3	−62.2	16.4	5.4	−67.1	8.2	3.9	−52.4	1.0	.5	−50.0
Puerto Rico	22.9	8.9	−61.1	14.6	3.8	−74.0	8.4	5.1	−39.3	2.7	2.0	−25.9
Rhode Island	10.7	3.8	−64.5	4.1	1.6	−61.0	6.6	2.3	−65.2	.4	.5	+25.0
South Carolina	17.3	8.5	−50.9	8.7	3.3	−62.1	8.6	5.2	−39.5	2.5	1.7	−32.0
South Dakota	7.7	5.3	−31.2	2.3	2.1	−8.7	5.4	3.2	−40.7	.3	.9	+200.0
Tennessee	12.9	8.6	−33.3	8.2	4.9	−40.2	4.7	3.7	−21.3	1.9	1.1	−42.1
Texas	15.2	5.4	−64.5	8.7	3.4	−60.9	6.5	2.1	−67.7	1.1	.4	−63.6
Utah	9.4	8.1	−13.8	6.0	5.1	−15.0	3.4	3.0	−11.8	.9	.6	−33.3
Vermont	17.9	6.7	−62.6	10.0	1.4	−86.0	7.8	5.3	−32.1	.7	.2	−71.4
Virgin Islands	9.4	16.4	+74.5	4.2	11.4	+171.4	5.2	5.0	−3.8	1.7	2.9	+70.6
Virginia	14.9	6.4	−57.0	5.3	3.6	−32.1	9.6	2.8	−70.8	2.7	1.4	−48.1
Washington	8.0	5.4	−32.5	5.2	2.6	−50.0	2.8	2.8		.4	.5	+25.0
West Virginia	10.2	4.9	−52.0	6.4	1.9	−70.3	3.8	3.0	−21.1	.9	.3	−66.7
Wisconsin	7.3	3.9	−46.6	4.2	2.1	−50.0	3.1	1.8	−41.9	1.5	1.1	−26.7
Wyoming	11.3	4.0	−64.6	7.4	1.8	−75.7	3.9	2.2	−43.6	1.9	1.0	−47.4

[1] See footnote 1, table 11.
[2] See footnote 2, table 11.
[3] Less than 0.05 percent.
[4] See footnote 3, table 11.

Source: U.S. Department of Health, Education, and Welfare.

The committee believes that this progress can be continued, and that with proper incentives the States can be encouraged to decrease the number of errors in their AFDC caseload to more acceptable levels. The committee notes that the General Accounting Office in its recent report on the AFDC quality control program recommended that legislation establishing an incentive for controlling payment errors be enacted.

Committee provision.—The committee amendment would establish a modified version of the current AFDC quality control program as a requirement of law to determine the level of case and dollar error rates with respect to eligibility, overpayment, and underpayment of aid paid under the approved State plan and case error rate with respect to incorrect denials and terminations of aid. Instead of applying sanctions on the States, the dollar error rates would be used as the basis for a system of incentives, which would give the States motivation for expanding their quality control efforts and improving program administration. Under the amendment States which have dollar error rates of, or reduce their dollar error rates to, less than 4 percent but not more than 3.5 percent of the total expenditures would receive 10 percent of the Federal share of the money saved, as compared with the Federal costs at a 4-percent payment error rate. This percentage would increase proportionately as shown in the following table:

If the error rate is:	The State would retain this percent of the Federal savings
At least 3.5 percent but less than 4 percent	10
At least 3 percent but less than 3.5 percent	20
At least 2.5 percent but less than 3 percent	30
At least 2 percent but less than 2.5 percent	40
Less than 2 percent	50

The Secretary would by regulations also require the States, beginning April 1, 1978, to establish and administer a special performance evaluation and corrective action system that would, using data already available, identify operating units below the State level with excessive error rates. The States would be required to make analyses and to prescribe corrective action affecting those operating units. Such analyses would be made every 6 months until error rates were substantially reduced. Cases in the samples are to be coded in such a way as to enable analyzers to identify where and by whom the cases were handled and the date the redetermination of eligibility was due to be made and was made. These measures are necessary to enable the administering agencies to determine the specific sources, causes, and reasons for errors. (However, no identifying information about State or local employees is to be forwarded or maintained at the Federal level.) Where such information is maintained at the State or local levels, it would be used as a management tool for improving program performance and not as a means of applying pressure on individual employees.

Full field investigations, including face-to-face interviews, are to be conducted for each case in the State samples (except for negative case actions) to independently establish and verify each element of eligi-

bility and payment as of the review date. In addition, States would be required to have corrective action plans and to take corrective action on incorrect assistance determinations. There would have to be public notice of error rates (including an analysis of causes and sources of errors), and of actions taken or planned to be taken to correct system weaknesses. Reviewers, including State reviewers, reviewers acting as agents of the Secretary or agents of the HEW Inspector General shall, in order to assure the validity and integrity of the quality control system, have access at the State and local levels to all State and local records relating to public assistance, to recipients, and to third parties.

Findings of the quality control program would have to be reported by the States on a timely basis to the Inspector General of HEW and to the program operating component. The program operating component would be required to conduct a review in each State for each 6-month period using Federal quality control reviewers. If a State repeatedly failed to submit its quality control findings within 2 months (subject to the discretion of the Secretary) the quality control review would be conducted by the Secretary with double the cost of the review to be borne by the State.

Federal reviewers would review a subsample of the State sample, and would be required to conduct a full field investigation of all cases in the subsample (except that the Secretary may specify by regulation categories of cases which will not require full field investigation). They would also examine cases in the State's review of the previous 6-month period to determine whether appropriate corrective action was taken. In computing payment error rates for purposes of State quality control incentive payments the Secretary would use the point estimate at the 95-percent confidence level of a statistical regression formula applied to error rates obtained from both the Federal and State data. Errors for this purpose would include errors involving ineligibility and overpayments. All analyses and reports of case error rates, however, would have to include negative case actions and cases involving underpayments.

Under the amendment the Secretary would be required to provide technical assistance to State administering units to assist them in planning and operating their quality control programs, and in taking followup corrective actions as necessary.

Under the amendment, the Inspector General would closely monitor the operation and findings made under the quality control program, the incidence and extent of fraud and abuse in the State AFDC programs, and, as appropriate, recommend improvements in (or alternatives to) the methods for identifying and determining fraud and abuse, methods for identifying cases involving large dollar errors, and methods of ascertaining those administrative units which have high dollar errors. The medicaid quality control program would also be monitored by the Inspector General.

As under the present HEW regulation, titles I, X, XIV and XVI as in effect in the case of the Commonwealth of Puerto Rico, the Virgin Islands, and Guam would also be subject to quality control review. At least twice a year, to coincide with the 6-month quality control review periods, the Secretary would be required to submit a report to the Congress which would include a detailed analysis of the quality control samples, errors, corrective actions taken, and a description of

kinds and classes of errors from any prior period which have not been corrected. Error rate findings and cost avoidance measures to be taken are to be described in the quality control reports of the Secretary to the Congress. The Secretary would also submit a report on the actions of the Inspector General with respect to AFDC fraud and abuse and with respect to his recommendations for improvements in the system.

RECIPIENT IDENTIFICATION CARDS

(Sections 502 and 504 of the Bill)

Present law.—Under present law States are eligible to receive 50 percent matching for the costs of issuing photo-identification cards to AFDC recipients as part of their administrative procedures. Several States and localities have adopted the use of these cards as a means of identifying recipients in order to facilitate cashing of checks, provide necessary protection to banks and businesses cashing checks for welfare recipients, and minimize abuses by preventing forged endorsements and unjustified claims for replacement checks. Experience has shown that these cards can be issued in such a way as to assure protection to the recipient, and to be cost-effective from the standpoint of the welfare agency. In describing the photo-identification system in New York, the Department of Health, Education, and Welfare has stated: "In addition to assuring recipients that their checks are cashed promptly upon proper identification, the system has been instrumental in substantially reducing the problem of check reissuances in New York City along with other steps taken to this end."

Committee provision.—The committee believes that because of the demonstrated advantages of use of the photo-identification system, States and localities should be encouraged to adopt it for use in circumstances in which they believe it would be beneficial. The committee amendment would therefore provide an increased level of matching of 75 percent for costs incurred by a State or political subdivision in issuing photo-identification cards.

In addition to the photograph and signature of the caretaker relative for the recipient group, the cards would include other information such as name, address, social security number, programs for which eligible, issuance and expiration date and other data prescribed by the State. States would be allowed to make the issuance of a photo-identification card a condition of AFDC eligibility. The committee intends that the 75 percent matching be limited to the costs of issuing the cards themselves and of any necessary photographic equipment purchased after enactment to implement a photo-identification system.

MATCHING FOR ANTIFRAUD ACTIVITIES

(Sections 503 and 504 of the Bill)

Present law.—In fiscal year 1976 States reported 166,342 AFDC cases in which there was a question of fraud sufficient to require investigation of the facts involved. This was 34 percent above the number reported for 1974. Although data is too sketchy to conclude that there has recently been any significant increase in the incidence of fraud, there has been increasing emphasis by the States on the prevention,

deterrence, detection, referral for prosecution, and recovery of overpayments in cases involving questions of fraud. Despite this increased activity on the part of the States, a number of problems have been cited in State efforts to deal with welfare cases involving the question of recipient fraud. The 1976 fiscal year report by the Department of Health, Education, and Welfare on the "Disposition of Public Assistance Cases Involving Questions of Fraud" states that "Lack of staff has resulted in backlogs. One southern State reported that a staff shortage in their Recovery Section during the fiscal year resulted in 8,000 cases pending review. Several States experiencing staff turnover and a hiring freeze commented that lack of staff renders it difficult to monitor or process cases where a question of fraud might exist." The report states further that "Inadequate staffing is a major problem plaguing the identification of cases which involve an intent to defraud, and those which represent overpayments of illegal receipt of assistance. It also affects the actual gathering of essential information for appropriate preparation of information to prove fraud cases for presentation to prosecuting attorneys. Local law enforcement agencies also suffer from staff shortages, resulting in complaints from some States of inaction by county prosecutors on cases which Welfare Board Officials feel should be prosecuted; of long time lapses between referral to prosecuting offices and action taken on cases due to backlog of all criminal cases; and of prosecutors placing a higher priority on the prosecution of crimes other than welfare fraud because of a lack of prosecutors."

In the past there has been little emphasis within the Department of Health, Education, and Welfare on the need for State antifraud activities. For the most part, the initiative for such activities has come from the State and local level. Aside from providing 50 percent matching for antifraud activities as part of regular administrative expenses, the Federal Government has played a very minor role.

Committee provision.—The committee believes that the emphasis on curbing fraud and abuse in welfare programs which has recently been demonstrated by the administration and by the Department of Health, Education, and Welfare should have the effect of further encouraging the States to pursue the identification and prosecution of fraud. The committee believes, however, that this encouragement should be supported by more than rhetoric. The committee amendment therefore provides for an increase in the matching rate from the current level of 50 percent to 75 percent for State and local antifraud activities. The increased matching rate would apply to direct welfare agency costs, and also to the costs incurred by other agencies such as prosecutor's offices, but only insofar as the costs are incurred by separate identifiable welfare fraud units.

DETERMINATION OF AFDC BENEFITS FOR A CHILD IN CERTAIN LIVING ARRANGEMENTS

(Section 505 of the Bill)

Present law.—Under present law, States are not permitted to assume any contributions to household upkeep on the part of an individual living in the household but not eligible for AFDC. In other words,

if a stepfather is present in the household, the children's AFDC entitlement must be computed as though he were not part of the household unless there is clear proof that he is actually paying a share of the fixed household expenses.

Committee provision.—In the case of an AFDC child living with a relative (1) who is not legally responsible for his support, or (2) who is legally responsible but is not eligible for AFDC because he is receiving support from another person or aid under another program, a State would be allowed under the committee bill to pay an amount based on the full family size but reduced on a pro-rata basis to take account of the presence of ineligible family members. The committee believes that this modification will enable the States to make a more equitable allocation among families dependent upon assistance of the funds which the State is able to devote to the AFDC program. AFDC studies have shown that a substantial proportion of AFDC households include relatives who are not themselves a part of the AFDC eligibility group. It would seem reasonable for a State to structure its AFDC benefit rules in a manner which assumes that such relatives bear a proportionate responsibility for the overhead costs of maintaining the household.

SAFEGUARDING INFORMATION

(Section 506 of the Bill)

Present law.—Present law provides in part that State plans under title IV–A (AFDC) must include safeguards which prevent disclosure concerning AFDC applicants or recipients which identifies them by name or address to any committee or legislative body. HEW regulations include Federal, State, and local committees or legislative bodies under this provision. This provision of Federal law, which was added in August 1975 as part of P.L. 94–88, has had the result of impairing the capacity of authorized agencies and bodies to conduct necessary audits of the AFDC rolls.

Committee provision.—The committee amendment would modify this provision to clarify that any governmental agency authorized by law to conduct an audit or similar activity in connection with the administration of the AFDC program is not included in the prohibition. It would also exclude the Committee on Finance and the Committee on Ways and Means from the prohibition.

PROTECTIVE AND VENDOR PAYMENTS

(Section 525 of the Bill)

Present Law.—Under existing law States are allowed to make protective or vendor payments, instead of direct cash payments, with respect to recipients of aid to families with dependent children. The number of recipients with respect to whom such payments may be made in any State may not exceed 10 percent of the number of other AFDC recipients, and the payments may be made only under specified conditions. State plans for such payments must include provisions for: (1) determination by the State agency that the relative of the child with respect to whom the payments are made has such inability to manage funds that making payments to him would be

contrary to the welfare of the child; (2) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family; and (3) periodic review by the State agency of the determination to make protective or vendor payments to ascertain whether conditions justifying the determination still exist, with provision for termination of the payments if they do not, and for seeking judicial appointment of a guardian or other legal representative if it appears that the need for protective or vendor payments is continuing or is likely to continue beyond a specified period.

Committee provision.—During its hearings on H.R. 7200 the committee heard persuasive testimony that the provisions of present law frequently act as a barrier to an AFDC family in obtaining adequate housing. It was maintained that by raising the limit on the number of protective and vendor payments which could be made and adding new provisions for joint checks in certain circumstances, recipients would be more likely than at present to get the housing and utility services which they need. The committee bill thus includes several provisions relating to protective and vendor payments. First, in cases in which the State agency made a determination of inability to manage funds, payments could be made in the form of joint checks as a kind of vendor payment. Such joint checks could be made at the discretion of either the State or local agency administering the State plan. A statement of the specific reasons for making the payments in that manner would have to be placed in the case file. Second, the limit on the number of recipients with respect to whom a State could make protective or vendor payments would be increased to 20 percent. Third, in addition to the protective and vendor payments which the State or local agency could make subject to the new 20-percent limitation, States would be allowed to make payments to cover the cost of utility services or living accommodations in the form of checks drawn jointly to the order of the recipient and the person furnishing the services or accommodations. Such joint checks would have to be requested by the recipient in writing, and the request would be effective until revoked by the recipient. The amount of the monthly payment which could be made in the form of joint checks would be limited to 50 percent. These joint checks could be made at the discretion of either the State or local agency administering the State plan, and there would be no limit on the number of recipients with respect to whom joint checks to pay for housing or utilities could be written.

Because of the concern for potential abuse, the committee has limited Federal matching for voluntary, two-party vendor payments to a period of 2 years, or until October 1, 1979. The committee expects the Secretary of HEW to carefully monitor the implementation of this section and to obtain from the States such information as he may need to report to the committee on the experience of the States with the voluntary, two-party vendor arrangement allowed under this section. This report should be made available in time for the information to be used by the committee in considering any legislative action that might be taken prior to the expiration date of these provisions.

In addition to authorizing increased numbers and forms of protective and vendor payments, the committee bill would provide that Federal matching funds could not be denied to any State for the period

between January 1, 1968, and April 1, 1977: (1) because the State exceeded the 10-percent limitation on these payments; (2) because it provided assistance in the form of joint checks; or (3) because it did not comply with the State plan provisions described above which limit the conditions under which protective or vendor payments may be made. Testimony was presented at the hearings that without this "forgiveness" provision, New York City might be penalized about two-thirds of $1 billion over an eight and one-half year period.

MANAGEMENT INFORMATION SYSTEM

(Section 507 of the Bill)

Present law.—There is increasing evidence that administration of the AFDC program could be significantly improved if States establish and use computerized information systems in the management of their programs. Such systems have been demonstrated to be helpful in program planning and evaluation. They also make day-to-day operations more efficient, and they are crucial to assuring that eligibility determinations are properly made and that fraud and abuse are discovered on a timely and ongoing basis. Although the merits of such systems are generally recognized, the States have been slow to develop them because of the large initial outlays which are necessary, and because of the ongoing cost of operating them. States may currently receive Federal matching for the systems as an administrative cost, but Federal matching is limited to 50 percent. This is in contrast to the medicaid program, in which 90 percent Federal matching is authorized for the cost of developing and implementing computer systems, and 75 percent for their operation.

Committee provision.—The committee is convinced that the administration of State AFDC programs could be greatly improved through judicious use of modern computerized management information systems. Recipients could be expected to benefit from more expeditious handling of their cases and decreases in processing time; local, State, and Federal Governments—and the taxpayer—could be expected to benefit from a decrease in costs because of a reduction in errors and use of better planning and management techniques.

Thus, the committee amendment provides an incentive to the States to develop and expand their existing systems by increasing the rate of matching to 90 percent for the costs of developing and implementing the systems and to 75 percent for the costs of operating them, provided the system meets the requirements imposed by the amendment.

Under the committee amendment, the Department of Health, Education, and Welfare would be required, on a continuing basis, to provide technical assistance to the States and would have to approve the State system as a condition of Federal matching. (Continuing review of the State systems would also be required.) To qualify for HEW approval, the system would have to have at least the following characteristics: (1) Ability to provide data concerning all AFDC eligibility factors; (2) capacity for verification of factors with other agencies through identifiable correlation factors such as social security numbers, names, dates of birth, and home addresses; (3) ability to control and account for the costs, quality and delivery of funds and services furnished to applicants and recipients; (4) capability for notifying

child support, food stamp and medicaid programs of changes in AFDC eligibility or benefit amount; and (5) security against unauthorized access to or use of the data in the system.

In approving systems, the Department would have to assure sufficient compatibility among the other public assistance, medicaid, and social services systems in the States and among the AFDC systems of different States to permit periodic screening to determine whether an individual was drawing benefits from more than one jurisdiction. (The increased matching would be applicable to existing systems if they meet the criteria for approval of new systems.)

Such approval would be based on the Secretary's finding that the initial and annually updated advanced automatic data processing document, which each State must have, will, when implemented, generally carry out the objectives of the statewide management system. Such a document would provide for the conduct of and reflect the results of requirements analysis studies, contain a description of the proposed statewide management system, indicate the security and interface requirements in the system, describe the projected and expected to be available resource requirements for staff and other needs, include cost-benefit analyses of each alternative management system, data processing services and equipment and a plan showing the basis for both indirect and direct rates to be in effect, contain an implementation plan to handle possible failure of contingencies, and contain a summary of the system in terms of qualitative and quantitative benefits.

ACCESS TO WAGE INFORMATION FOR AFDC VERIFICATION

(Section 508 of the Bill)

Present law.—Quality control findings indicate that 76 percent of client errors in the AFDC program are the result of non-reporting of income. States have particular difficulty in many cases in verifying the source and amount of earned income. In many cases they are dependent solely on the recipient to supply wage information.

Committee provision.—The committee bill would improve the capacity of States to acquire accurate wage data by providing authority for the States to have access to earnings information in records maintained by the Social Security Administration and State employment security agencies. Such information would be obtained by a search of wage records conducted by the Social Security Administration or the employment security agency to identify the fact and amount of earnings and the identity of the employer in the case of individuals who were receiving AFDC at the time of the earnings. The Secretary of Health, Education, and Welfare would be authorized to establish necessary safeguards against improper disclosure of the information. Beginning October 1979, the States would be required to request and use the earnings information made available to them under the committee amendment.

In addition, the committee directs the General Accounting Office to undertake a study to determine the effects of making available to the States for AFDC eligibility determination purposes certain additional kinds of information, including certain Federal and State tax return information, payroll records of Federal, State, and local agencies, motor vehicle registration and drivers' license records, school

records, and payroll records of private employers (on a voluntary basis). The study would examine both the effect of such access on the reduction of AFDC error and other impacts which such disclosure might have.

Although the records of wages maintained by the Social Security Administration and by State employment security agencies may not be available on a current basis, it seems inevitable that a procedure for screening against one or the other of these two sets of records should greatly increase the incentive for recipients to accurately report their earned income. Where welfare agencies are requesting the wage data from the Social Security Administration, each State or local administering agency would designate a single official who would be authorized to make the necessary request for information. Alternatively, procedures for requesting such information could be worked out by mutual agreement of the welfare agency and the Social Security Administration. The costs of searching wage records would be reimbursed to the agency maintaining the records and would be matchable as an administrative expense of the welfare agency.

F. Provisions Relating to the Child Support Enforcement Program

Present law requires that the child support enforcement program (under title IV, part D of the Social Security Act) be administered by a single and separate organizational unit in the Department of Health, Education, and Welfare and in each State under a State plan for child support administered separately from other State plans. The Department of Health, Education, and Welfare has established an Office of Child Support Enforcement which is solely responsible for the title IV–D program, and its Director reports directly to the Secretary of HEW. HEW regional child support staff, under the regional child support representative, are responsible solely for title IV–D and report directly to the Office of Child Support Enforcement.

The manner in which the Department of Health, Education, and Welfare has complied with the requirement of a separate organizational unit for child support enforcement is in keeping with the spirit and intent of present law and is analogous to the organizational structure for child support enforcement in many States—particularly States with highly cost-effective programs such as Michigan, Massachusetts, Washington, Iowa, Georgia, New Hampshire, North Dakota, and Virginia.

A comparison of administrative costs and child support collections shows a wide disparity in effectiveness among the States, with some States spending far more than they collect.

Now that the program is in its third year and start-up costs are largely complete, it is expected that the Office of Child Support Enforcement, HEW will closely monitor the State programs, particularly those with excessive expenditures in relation to their collections.

TABLE 13.—AFDC CHILD SUPPORT ENFORCEMENT, FISCAL YEAR 1976

[Thousands]

State	Administrative costs			Collections
	Total	State	Federal	
Total	$142,007.9	$37,634.1	$104,373.8	$217,606.1
Alabama	815.9	203.9	612.0	12.8
Alaska	68.7	17.1	51.6	0
Arizona	240.2	58.2	182.0	11.6
Arkansas	158.2	39.5	118.7	30.9
California	42,825.7	11,362.0	31,463.7	26,132.2
Colorado	1,292.8	323.3	969.5	1,787.4
Connecticut	479.7	119.9	359.8	6,529.5
Delaware	406.8	72.6	334.2	676.5
District of Columbia	445.5	73.9	371.6	454.7
Florida	1,680.3	420.0	1,260.3	602.1
Georgia	674.8	168.7	506.1	2,508.8
Hawaii	395.6	87.6	308.0	28.6
Idaho	400.6	100.0	300.6	995.5
Illinois	2,762.7	1,322.0	1,440.7	4,365.5
Indiana	48.5	12.1	36.4	(1)
Iowa	900.3	225.2	675.1	5,615.8
Kansas	294.5	73.7	220.8	2,045.2
Kentucky	339.4	84.9	254.5	148.1
Louisiana	3,063.3	765.8	2,297.5	908.0
Maine	413.7	103.3	310.4	961.4

See footnotes at end of table.

TABLE 13.—AFDC CHILD SUPPORT ENFORCEMENT, FISCAL YEAR 1976—Continued

[Thousands]

State	Administrative costs			Collections
	Total	State	Federal	
Maryland	$998.4	$249.7	$748.7	$5,949.7
Massachusetts	2,879.1	719.6	2,159.5	16,329.1
Michigan	7,150.0	1,787.5	5,362.5	53,682.2
Minnesota	4,594.1	1,145.8	3,448.3	6,264.9
Mississippi	255.3	127.6	127.7	(1)
Missouri	309.9	155.0	154.9	(1)
Montana	347.3	143.2	204.1	177.2
Nebraska	276.0	64.9	211.1	85.9
Nevada	4.6	2.1	2.5	(1)
New Hampshire	96.0	24.0	72.0	645.0
New Jersey	8,529.9	1,828.7	6,701.2	13,890.9
New Mexico	370.6	92.7	277.9	522.9
New York	33,343.0	9,455.2	23,887.8	7,795.0
North Carolina	1,103.5	271.7	831.8	105.8
North Dakota	82.0	20.6	61.4	397.7

Ohio	3,287.8	824.0	2,463.8	16,285.9
Oklahoma	838.7	172.0	666.7	545.6
Oregon	3,582.5	895.5	2,687.0	947.3
Pennsylvania	2,137.0	534.2	1,602.8	12,663.8
Rhode Island	618.7	158.7	460.0	2,214.2
South Carolina	132.6	33.1	99.5	0
South Dakota	557.1	139.5	417.6	396.1
Tennessee	106.8	26.7	80.1	340.7
Texas	4,192.2	1,048.1	3,144.1	3,803.2
Utah	976.3	197.2	779.1	1,603.1
Vermont	304.8	76.2	228.6	665.0
Virginia	1,091.3	272.8	818.5	3,694.1
Washington	3,335.2	833.9	2,501.2	11,233.9
West Virginia	387.3	97.0	290.3	0
Wisconsin	2,004.5	501.1	1,503.4	3,366.8
Wyoming	61.7	15.4	46.3	150.6
Guam	16.9	4.2	12.7	1.3
Puerto Rico	177.6	44.4	133.2	(2)
Virgin Islands	152.0	38.1	113.9	33.6

[1] State under waiver until June 30, 1976.
[2] Information incomplete or not received.

Source: Department of Health, Education, and Welfare.

CONTINUED FEDERAL MATCHING FOR NONWELFARE FAMILIES

(Section 509 of the Bill)

Present law.—The child support enforcement program, enacted at the end of the 94th Congress as title IV–D of the Social Security Act (Public Law 93–647), mandates aggressive administration at both the Federal and local levels with various incentives for compliance and with penalties for noncompliance. The program includes child support enforcement services for both welfare and non-welfare families. The child support enforcement program leaves basic responsibility for child support and establishment of paternity to the States, but provides for an active role on the part of the Federal Government in monitoring and evaluating State child support enforcement programs, in providing technical assistance, and, in certain instances, in undertaking to give direct assistance to the States in locating absent parents and obtaining support payments from them. To assist and oversee the operation of State child support programs, the Department of Health, Education, and Welfare is required to set up a separate organizational unit under the direct control of a person designated by and reporting to the Secretary. This office reviews and approves State child support enforcement plans, evaluates and audits the implementation of the program in each State, and provides technical assistance to the States. The act also provides for a parent locator service within the Department of HEW's separate child support enforcement unit. The act further requires that a mother, as a condition of eligibility for welfare, assign her right to support payments to the State and cooperate in identifying and locating the father, and securing support payments except when cooperation is determined not to be in the best interest of the child.

The legislation creating the child support program required each State to have a program of child support collection and paternity establishment services for both AFDC and non-AFDC families administered by a single and separate organizational unit within the State. The statute provided Federal matching of 75 percent for services to AFDC families on a permanent basis. Matching for services to non-AFDC families was provided for 1 year, but was extended for a second year, to July 1, 1977, under Public Law 94–365. In order to assure the continuity of the program, and to give the committee time to consider possible amendments, the committee in June reported an amendment to extend the matching provision for services to non-AFDC families through fiscal year 1978. This was enacted in Public Law 95–59.

Committee provision.—The committee believes that the requirement that every State have a program of child support collection and paternity establishment services for families that are not receiving welfare is an essential component of the child support program. The obvious purpose of the requirement is to assure that abandoned families with children have access to child support services before they are forced to apply for welfare. It is the opinion of the committee, supported by the statements of many State child support administrators, that access to these services often means the difference between a family's reliance on welfare support and being supported by a legally responsible parent. Most of the families being served are marginally eligible for AFDC, and without services are likely to end up on the

welfare rolls. The fact that these services are in demand and are benefiting families is evident from program statistics. In the first half of fiscal year 1977 the States reported that they had collected about $140 million in behalf of nearly 280,000 nonwelfare families. In the period since the beginning of the program in August 1975 through March 1977 States reported total child support collections of nearly $1 billion, of which $437.5 million was for non-AFDC families. The table below shows State collections and expenditures for the child support program over this period of time.

TABLE 14.—OFFICE OF CHILD SUPPORT ENFORCEMENT, COLLECTIONS AND EXPENDITURES, AUGUST 1, 1975 THROUGH MARCH 31, 1977

[In millions]

State	Collections			Total expenditures
	AFDC	Non-AFDC	Total	
Total[1]	[2] $542.1	$437.5	[2] $979.6	$318.3
Alabama	.1	.01	.1	2.6
Alaska	.1	.6	.6	.4
Arizona	.2	(3)	.2	1.0
Arkansas	.4	.004	.4	.6
California	54.9	91.8	146.7	86.6
Colorado	4.0	.1	4.1	3.2
Connecticut	12.2	17.2	29.3	3.5
Delaware	1.5	7.9	9.4	.8
District of Columbia	.8	.004	.8	1.1
Florida	1.4	.1	1.5	3.3
Georgia	4.6	.2	4.8	1.6
Hawaii	.5	(3)	.5	1.1
Idaho	2.2	.1	2.3	.8
Illinois	9.4	.1	9.4	5.9
Indiana	3.6	.02	3.7	1.5
Iowa	10.7	.3	11.0	1.8
Kansas	4.4	.01	4.4	1.0
Kentucky	.6	.03	.6	1.1
Louisiana	2.5	8.2	10.7	6.1
Maine	2.9	.03	3.0	1.0
Maryland	9.0	(3)	9.0	2.9
Massachusetts	36.8	0	36.8	5.5
Michigan	101.1	34.3	135.5	16.6
Minnesota	14.5	3.5	18.0	10.0
Mississippi	.3	0	.3	.6

TABLE 14.—OFFICE OF CHILD SUPPORT ENFORCEMENT, COLLECTIONS AND EXPENDITURES, AUGUST 1, 1975 THROUGH MARCH 31, 1977—Continued

[In millions]

State	Collections			Total expenditures
	AFDC	Non-AFDC	Total	
Missouri	0	0	0	$0.3
Montana	$.6	$.1	$.7	.6
Nebraska	.5	.05	.6	.8
Nevada	.1	.3	.3	.6
New Hampshire	1.8	0	1.8	.3
New Jersey	27.3	(3)	27.3	19.5
New Mexico	1.1	.1	1.2	1.1
New York	35.2	(3)	35.2	67.5
North Carolina	1.7	.3	1.9	3.2
North Dakota	1.0	.1	1.1	.3
Ohio	29.8	.05	29.9	7.2
Oklahoma	1.4	.2	1.5	2.2
Oregon	5.2	44.4	49.6	7.3
Pennsylvania	29.1	218.0	247.0	11.7
Rhode Island	4.3	(3)	4.3	1.2
South Carolina	.1	.003	.1	.5
South Dakota	.8	.02	.9	1.2
Tennessee	1.3	1.2	2.5	.7
Texas	7.9	.9	8.8	9.8
Utah	3.5	.4	3.8	2.1
Vermont	1.4	.1	1.5	.7
Virginia	7.4	0	7.4	3.2
Washington	22.4	6.6	29.0	7.0
West Virginia	.7	0	.7	1.4
Wisconsin	16.2	.4	16.6	6.5
Wyoming	.4	.1	.4	.1
Guam	.01	0	.01	.1
Puerto Rico	0	0	0	.5
Virgin Islands	.1	.02	.1	.2

[1] Totals do not add due to rounding.
[2] Includes $63,000,000 in fiscal year 1976 unreported collections and payments made directly to families.
[3] Information not reported.

Source: U.S. Department of Health, Education, and Welfare.

The committee believes that the existing programs of required services for non-AFDC families may flounder if Federal financing for the services is allowed to terminate. It also believes that States will be more willing to develop and expand the programs if they are convinced that Federal financing will be continued. In addition, it seems reasonable and fair to assist in the financing of a State program which is mandated by Federal law. The committee notes in particular that States which do not have an effective program for non-AFDC families are subject to a penalty provision which requires a reduction in Federal matching for AFDC of 5 percent if a State is found as the result of a Federal audit to have failed to have an effective child support program. For these reasons, the committee amendment would provide for Federal matching for services to non-AFDC families on a permanent basis.

CHILD SUPPORT REPORTING AND MATCHING PROCEDURES

(Section 510 of the Bill)

Present law.—Present law requires that the Federal Office of Child Support Enforcement maintain adequate records for both AFDC and non-AFDC families of all amounts collected and disbursed and the costs incurred in collecting and disbursing these amounts and publish periodic reports on the operation of the program in the various States and localities and at national and regional levels. The Office of Child Support Enforcement must also submit an annual report to the Congress on all activities undertaken in the child support program as well as the major problems encountered at Federal, State, or local levels which have delayed or prevented implementation of the child support program.

Present law also provides that the State will maintain for both AFDC and non-AFDC families a full record of collections, disbursements, and expenditures and of all other activities related to its child support programs. An adequate reporting system is also required. The committee is aware that some States are delinquent in their record-keeping and reporting, and believe that this situation must be corrected.

Committee provision.—The committee has been concerned about the failure of some States to report and account for child support collections for AFDC and non-AFDC families on a reasonable, timely basis. The committee amendment thus would improve State reporting by prohibiting advance payment to the State of the Federal share of administrative expenses for a calendar quarter unless it has submitted a full and complete report of the amount of child support collected and disbursed for the calendar quarter which ended 6 months earlier. The amendment would also allow the Department of Health, Education, and Welfare to reduce the amount of the payments to the State by the Federal share of child support collections made but not reported by the State.

COLLECTION OF CHILD SUPPORT FOR FAMILIES RECENTLY ON WELFARE

(Section 511 of the Bill)

Present law.—Under present law applicants and recipients of AFDC are required, as a condition of assistance, to assign the State any rights to support they may have, and which have accrued at the time the assignment is executed. Present law also requires State agencies to collect child support payments on behalf of the AFDC recipient. Amounts collected which represent the child support obligation for the current month are generally retained by the State to the extent necessary to reimburse it for the current AFDC payment. If the amount of the child support collection made by the State is in excess of the court-ordered monthly support payment for the family, the amount of the excess is retained by the State to reimburse it for assistance payments previously made to the family. Present law also allows States at their option to continue to collect support payments from an absent parent for up to 4 months after AFDC payments have been terminated. If they do this, HEW regulations require them to continue to retain payments in excess of the required monthly support order as reimbursement for past assistance payments. The HEW regulations have been challenged as inconsistent with the statute.

Committee provision.—The committee amendment would add clarifying language to uphold the HEW interpretation that States are required to continue to retain support payments in excess of the regular monthly support order as reimbursement for past assistance payments. This is consistent with the intent of the Congress in establishing the child support program that legally responsible parents who owe child support to AFDC families accrue an obligation to the State for assistance paid to their families.

MATCHING FOR CHILD SUPPORT COSTS OF COURT PERSONNEL

(Section 512 of the Bill)

Present law.—Present law requires that State child support plans provide for entering into cooperative arrangements with appropriate courts and law enforcement officials to assist the child support agency in administering the program. The law specifically requires the entering into of financial arrangements with such courts and officials in order to assure optimum results under the child support program and with respect to any other matters of common concern to the courts and the child support agency. Federal regulations are now written in such a way as to allow States to claim Federal matching for the compensation of district attorneys, attorneys general and similar public attorneys and prosecutors and their staff. However, States may not receive Federal matching for compensation of judges.

The increasing success of the child support employment program is reflected not just by the amounts of child support collected, but also by other program results. In fiscal year 1976, 181,500 absent parents were located and in the next 12 months, an additional 303,500. Paternity was established for 14,700 children in fiscal year 1976 and for an additional 53,100 children in the next 12 months. There were

75,000 child support obligations established in fiscal year 1976 and an additional 146,100 obligations established in the subsequent 12 months.

Such success, however, has resulted in a backlog of cases in courts in some States. The Federal Child Support Enforcement Office made an informal telephone survey of the States in April 1976 in which it determined that more than 40,000 cases were pending in the various States. This number has grown significantly since that time as the child support program has been more fully implemented.

Committee provision.—The committee is concerned that the child support program may be seriously undermined if the current large backlog of cases is allowed to continue to grow. The committee is convinced that the situation can be improved if the States are enabled to use their Federal matching funds to compensate judges and other court personnel for services related to the child support program. The committee amendment would allow matching for compensation of judges and other court personnel only to the extent that the compensation is clearly identifiable with and directly related to services performed under the child support program. In addition, in order to assure that the new Federal dollars will result in increased court actions, the bill would provide matching only for amounts expended by a State which are greater than were expended by the State in calendar year 1976. The bill would allow the State to pay the compensation directly to the courts. Matching would be available for expenditures beginning January 1, 1978.

G. Welfare Provisions Related to Work and Training

WORK INCENTIVE PROGRAM

(Section 520 of the Bill)

Present law.—Adult members of AFDC families who are capable of employment are required to register for participation in the work incentive (WIN) program established under title IV–C and to accept training or employment offered through that program. Federal funding for the WIN program, including the costs of necessary supportive services, is provided at a 90-percent matching rate. This program is subject to annual appropriations and is presently funded at a level of $365 million. Legislation enacted earlier this year (Public Law 95–30) authorized additional appropriations up to $435 million for fiscal years 1978 and 1979 to be used without any non-Federal matching requirement. No funding under that provision has yet been appropriated.

The work incentive program was originally enacted by Congress in 1967 with the purpose of reducing welfare dependency through the provision of manpower training and job placement services. In 1971 the Congress adopted amendments aimed at strengthening the administrative framework of the program and at placing greater emphasis on immediate employment instead of institutional training, thus specifically directing the program to assist individuals in the transition from welfare to work. In the same year, Congress also provided for a tax credit to employers who hire WIN participants, equal to 20 percent of the wages paid for a maximum of 12 months' employment.

The 1971 amendments required that all persons at least 16 years of age and receiving AFDC benefits must register for WIN, unless caretaker of a child under age, legally exempt by reason of health, disability, needed in the home, advanced age, student status, or geographic location. Registrants selected for participation in WIN must accept available jobs, training, or needed services to prepare them for employment. Refusal to do so without good cause will result in termination of their AFDC payments.

Since these amendments were enacted, there has been a significant increase in the number of persons placed in employment with resultant savings in AFDC funding. In fiscal year 1976 and the following transition quarter, 237,000 WIN registrants entered employment. Of these, 105,000 individuals, plus the children of these individuals, went off of welfare completely. Statistics for the first seven months of fiscal year 1977 indicate that this success is continuing. In that brief period, 148,000 AFDC recipients entered employment, and 67,800 of them, with their families, left welfare as a result of sufficiently high earnings.

Committee provision.—Despite the growing success of the WIN program, the committee believes that the program should be strengthened in such a way as to provide additional encouragement for welfare recipients to move into employment. The committee further believes that AFDC recipients who are able to work should be required to actively seek employment and that this should be made explicit in the law. The committee amendment therefore would amend title IV–A to provide that AFDC recipients who are not excluded from WIN registration by law will be required, as a condition of continuing eligibility for AFDC, to participate in the full range of employment related activities which are part of the WIN program, including employment search activities. The committee anticipates that with such an employment search requirement, substantial numbers of AFDC recipients will find jobs and welfare costs will be reduced.

The employment search mandated by the committee amendment is not to be mechanically applied to require every individual to make a specific number of employment contacts. Rather, the term is to be interpreted to mean those activities determined by the State agency to be appropriate for WIN registrants to undertake to actively seek employment. The specifics of what constitutes employment search may be varied within different labor market areas within a State to reflect present labor market conditions, probable job openings, and the basic employability characteristics of the WIN registrants. Employment search activities are intended to be directed by professional manpower staff and supported by necessary services. Thus the amendment would require the provision of such social and supportive services as are necessary to enable the individual actively to engage in activities related to finding employment and, for a period thereafter, as are necessary and reasonable to enable him to retain employment. For example, transportation costs which are necessary for employment search would be covered, as would the costs of necessary child care. However, the committee expects the program to be so managed that the need for child care will be minimized.

Under present law State matching for social and supportive services must be in the form of cash. The committee amendment would make it easier for the State to provide the required 10 percent State matching by allowing matching in the form of in-kind goods and services.

The bill would provide for locating manpower and supportive services together to the maximum extent feasible, eliminate the requirement for a 60-day counseling period before assistance can be terminated, and authorize the Secretaries of Labor and HEW to establish the period of time during which an individual will not be eligible for assistance in the case of a refusal without good cause to participate in a WIN program. The bill also clarifies the treatment of earned income derived from public service employment, and adds to those excluded from the WIN registration requirement, individuals who are working at least 30 hours a week.

During its consideration of the WIN amendments the committee had brought to its attention the fact that demonstration projects have shown that the use of community college programs in providing training to welfare recipients has been particularly effective in enabling recipients to obtain better, more permanent employment. The committee urges the Department of Labor to expand its use of such programs in providing training under WIN.

TABLE 15.—WORK INCENTIVE PROGRAM DATA: FISCAL YEARS 1971–77

Category	1971	1972	1973	1974	1975	1976	1977
Registrations:							
In year		120,539	1,235,048	820,126	839,408	942,260	[1] 661,912
Cumulative	127,900	236,415	1,324,876	1,811,446	2,025,663	2,277,289	[1] 2,015,400
Entered employment:							
Full time	50,444	60,310	136,783	177,271	170,641	211,185	[1] 132,712
Part time						19,680	[1] 16,071
Welfare cost savings (millions)	([2])	([2])	([2])	[3] $129.3	[3] $212.4	$297.0	[1] $204.2
Program expenditures (Federal) (millions):							
Total					$276.7	$303.7	[4] $166.8
Employment service					205.9	196.2	[4] 116.1
Welfare agency					70.8	107.6	[4] 50.7

[1] 1st 7 mos.
[2] Not available.
[3] Calendar year data.
[4] 1st 6 mos.

INCENTIVE TO REPORT INCOME

(Section 521 of the Bill)

Present law.—Quality Control reviews show that a large percentage of the payment errors made in the AFDC program relate to earned income and the failure of the recipient to report the correct amount of any changes in amount earned. Of all cases involving error, the major concentration was in earned income—over 20 percent. A few States require that all income be reported on a monthly basis, as a condition of eligibility. Most States do not do this. When they learn that a recipient had unreported earned income in prior months, they give him the benefit of all the earned income disregards provided in law in calculating the amount of the overpayment. Thus, if a recipient is negligent in reporting his earnings even over a long period of time there is no penalty involved.

Committee provision.—The committee believes that there should be an incentive in the law for recipients with earnings to report their income on a prompt and complete basis. The committee amendment would accomplish this by providing that there would be no disregard of any earned income which the recipient has not reported to the State agency. This provision should have a significant impact in reducing errors and problems of overpayments.

AUTHORITY FOR STATES TO OPERATE DEMONSTRATION PROJECTS MAKING EMPLOYMENT MORE ATTRACTIVE FOR WELFARE RECIPIENTS

(Section 522 of the Bill)

Present law.—Section 1115 of the Social Security Act allows the Secretary of Health, Education, and Welfare to waive any of the State plan requirements of the Federal welfare law for the sake of experimental, pilot, or demonstration projects which in the Secretary's judgment are likely to assist in promoting the objectives of the welfare programs. The committee notes that under this existing law, there is considerable authority at the Federal level to carry on research and demonstration on better ways of developing work incentives for welfare recipients. Exclusive use of this approach, however, ignores one of the basic strengths of federalism; namely, that individual States should be free to experiment with better ways of solving governmental problems. A number of States have attempted to institute innovative employment programs for welfare recipients but they have been inhibited by HEW because of its slowness to act under current demonstration authority. The committee bill will alleviate this situation.

Committee provision.—Under the committee amendment, which is identical to an amendment reported by the committee and approved by the Senate in 1973 (section 164 of H.R. 3153, 93d Congress), this authority would be both broadened and made more explicit to emphasize a major objective for demonstration projects. This objective is to permit States to achieve more efficient and effective use of funds for public assistance recipients, to reduce dependency, and to improve the living conditions and increase the incomes of persons who are on assistance (or who would be on assistance if they were not participating

in the demonstration project) by conducting experiments designed to make employment more attractive for welfare recipients.

States would be limited to not more than three demonstration projects under this authority; one of the projects could be statewide. None of the projects could last for more than 2 years, and all authority for the projects would terminate September 30, 1980.

In pursuing these objectives under the committee bill, States would be permitted for demonstration purposes to waive the requirements of the aid to families with dependent children program relating to (1) statewideness; (2) administration by a single State agency; (3) the earned income disregard (but in no case could a State offer an earned income disregard of more than 50 percent); and (4) the work incentive program. The State could waive any or all of these requirements on its own initiative unless and until the Secretary disapproved the waiver as inconsistent with the purposes of section 1115 and the AFDC law. If the waiver was disapproved by the Secretary, the demonstration project would terminate by the end of the month following the month in which it was disapproved.

As part of a demonstration project, the State could use welfare funds to pay part of the cost of public service employment. The State could add additional amounts to pay a wage higher than the amount of the welfare payment. Under the committee bill, revenue sharing funds could be used for the non-welfare share of the salaries. The committee amendment requires the States, in making arrangements for public service employment, to provide that appropriate standards for the health, safety, and other conditions applicable to the performance of work and training are established and maintained, that projects will not result in the displacement of employed workers, and that the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and that appropriate workmen's compensation protection is provided to all participants. The State welfare agency would also be free to contract with non-profit private institutions organized for a public purpose, such as hospitals, to carry out such projects.

When unemployed fathers are placed in public service employment, Federal matching will continue for the portion of the salary equal to the former welfare payments and it will be available for wage payments.

Public Service employment is not the only type of experimentation authorized by the committee bill. States may wish, for example, to experiment with the income disregard. If they do so, however, they will not be allowed to conduct a test which disregards more than one-half of a welfare recipient's earned income.

Participation by welfare recipients in the demonstration projects would be voluntary.

The costs incurred by the States in conducting demonstration projects under this provision of the committee bill would be eligible for the same Federal matching as applies to other costs of the AFDC program, subject to the limitation that the amount matchable with respect to any participant in the project may not exceed the amount which would otherwise have been payable to him under the regular provisions of the AFDC program. Thus, these projects should not result in increased Federal expenditures.

COMMUNITY WORK AND TRAINING PROGRAMS

(Section 523 of the Bill)

Present law.—Prior to the enactment of the Work Incentive (WIN) Program as part of the 1967 Social Security Amendments, the Federal AFDC statute permitted Federal matching of AFDC payments made to recipients participating in a community work and training program. Since the enactment of the WIN program, however, the Department of Health, Education, and Welfare has taken the position that the Federal Government will not share in AFDC payments to recipients who are required by State law to participate in an employment program—unless the program either is part of the Work Incentive Program or is administered under the Economic Opportunity Act. This has been true even though the Work Incentive Program was not in effect in all areas of a State, and despite the fact that a number of States have been willing to pay the added costs of establishing and operating their own programs.

Community work and training programs were first established as part of the program of Aid to Families with Dependent Children by the Public Welfare Amendments of 1962. When the Congress enacted the community work and training legislation it had the expectation that the States would use this new authority, along with the expanded social services program authorized by those same 1962 amendments, to assist welfare recipients in moving toward self-support. Within the next few years only 13 States elected to use the authority. Those with the largest programs included California, Illinois, Michigan, Ohio and West Virginia. One significant reason why the programs did not develop on a broader scale was that the States were able to get more generous Federal funding for work and training programs under Title V of the Economic Opportunity Act.

The passage of the 1967 Social Security Amendments and the establishment of the Work Incentive Program represented a decision by the Congress to consolidate and expand the Federal effort to move welfare recipients into employment. The Finance Committee, in its report on the 1967 Amendments, made clear that it expected the WIN program to reach virtually all eligible participants. It noted that, in addition to the requirement in the legislation requiring the Department of Labor to establish a WIN program in each political subdivision in which he determined there were a significant number of AFDC recipients, ". . . the Secretary of Labor must use his best efforts to establish programs in all other political subdivisions or provide transportation to a neighboring area where there is a program. Consequently, it is anticipated that virtually all individuals who are referred to the Secretary of Labor by the welfare agencies will participate in the program."

This expectation for almost universal coverage of the AFDC population by the WIN program has not been met. There are various reasons for this, but the committee notes that recently a significant limitation to the WIN program has been the amounts of money which have been appropriated for the program. Although the Congress has this year approved a WIN authorization which would essentially double the amount of funding currently available, the administration has not requested that any of the additional funds be appropriated.

Committee provision.—A number of States have expressed an interest in developing their own efforts to assist welfare recipients to become employable through the community work and training mechanism. The committee believes that those States which are willing to take the initiative in this effort and to use their own funds to operate programs should be enabled to do so. Twice previously, in 1971 and in 1973, the committee reported, and the Senate approved, an amendment to reenact the community work and training provisions so that States wishing to have such programs could do so under the standards and safeguards provided by the legislation.

The stated purpose of the community work and training legislation is to assist the States "in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved. . . ." It allows the States to make assistance payments in the form of payments for work performed if the work is performed for the State agency or any other public agency under a program administered by or under the supervision of the State agency. State plans for programs must include provisions assuring that appropriate standards for health, safety, and other conditions applicable to the performance of the work are established and maintained; that payment is at a rate not less than the Federal minimum wage, not less than the minimum rate provided by or under State law for the same type of work, and not less than the rate prevailing on similar work in the community; that the work is performed on projects which serve a useful public purpose, do not result in the displacement of regular workers, and are of a type which has not normally been undertaken in the past by the State or community.

Expenses reasonably attributable to the cost of work must be considered in determining the amount of the AFDC payment, and participants must be given reasonable opportunities to seek regular employment and appropriate training. Participants must be covered under the State workmen's compensation law or be provided comparable protection, and aid cannot be denied if an individual has good cause for refusing to participate.

The State plan must provide for assuring appropriate arrangements for the care and protection of the child during the absence from the home of a parent who is performing work. Care provided to children under community work and training programs, like all other care provided under the Social Security Act, would have to meet the 1968 Federal Interagency Day Care Requirements, as modified by amendments currently in effect. The State plan must also provide for entering into cooperative arrangements with public employment offices and agencies responsible for vocational education and adult education programs. There is no provision for Federal matching for the cost of making or acquiring materials or equipment in connection with community work and training programs, or for the cost of supervision of work.

As in 1973, the committee amendment would modify the original legislation to exclude from any requirement to participate in community work and training programs the same categories of recipients as are excluded from the WIN registration requirement, as well as individuals who are already participating in WIN. In addition, protective payments for children whose relatives fail to comply with the community work and training requirements would be provided.

EARNED INCOME DISREGARD

(Section 524 of the Bill)

Present law.—Under present law States are required, in determining need for Aid to Families with Dependent Children, to disregard:

1. All earned income of a child who is a full-time student, or a part-time student who is not a full-time employee; and
2. The first $30 earned monthly by an adult plus one-third of additional earnings. Costs related to work (such as transportation costs, uniforms, union dues, child care and other items) are also deducted from earnings in calculating the amount of the welfare benefit.

Three problems have been raised concerning the earned income disregard under present law. First, Federal law neither defines nor limits what may be considered a work-related expense, and this has led to great variation among States and to some cases of abuse. Second, the requirement for itemization of individual work expenses results in administrative complexity and error. Third, some States have complained that the lack of an upper limit on the earned income disregard has the effect of keeping people on welfare even after they are working full-time at wages well above the poverty line.

In an effort to curb the abuse of the work expense provision and to simplify its administration, a number of States in the past established standard amounts to be used in the case of all AFDC recipients with earnings. However, in 1974 the U.S. Supreme Court in *Shea* v. *Vialpando* ruled the policy of using a fixed work expense disregard, regardless of actual costs, as contrary to the Social Security Act. It said, however, that a standard allowance which would enhance administrative efficiency would be permissible if it provided for individualized consideration of expenses in excess of the standard amount. Since the ruling, a number of States have used standard amounts for work expenses, but at the same time they are required to allow individual recipients to make additional claims for work expenses if they can show that they do in fact have such expenses.

In the summer of 1975 the Congressional Research Service conducted a survey to determine State practices with respect to work expenses. The responses indicated very wide variations among the States, and also indicated that in most instances individual itemization of work expenses is necessary. An analysis of AFDC work expenses which are allowable in the 42 States responding to the survey showed the following:

Child care.—Twenty-one of the responding States indicated that they imposed no dollar limit on child care expenses. Of those that did,

the range of allowable expense was from $17 to $50 a week. (Some States indicated that child care was not an allowable expense under AFDC. Presumably, in those States, if child care were necessary for an AFDC family, it would be provided through title XX vendor payments.)

Transportation, special clothing and lunch.—Ten States indicated that they had a standard amount for two or all of these items, ranging from about $25 to $44 a month. Seven States indicated that they disallowed one or more of the items. More specifically, States reported for:

1. *Transportation.*—Twenty States said they had no limit for transportation expenses. Those that gave mileage limitations ranged from 6 cents to 20 cents a mile. States did not indicate whether they allowed car payments or repairs as work expenses.
2. *Special clothing.*—Twenty-five States indicated that there was no limit for these expenses. The few that have established limits for this category generally specified a limit of $5 a month.
3. *Lunch.*—Fourteen States said they had not established a limit. Those that have, gave a range of from $0.25 to $1 a day.

States did not provide information to indicate what kinds of exceptions they make to their general rules, although it is known that some exceptions are made. For example, New York indicated a limit of $50 a week for child care. However, higher amounts are generally allowable in New York City.

In addition to the above-mentioned items, States generally allow for mandatory tax deductions and union dues.

Committee provision.—The committee believes that the broad discretion that now exists in determining work expenses leads to abuse, and also results in unnecessary administrative complexities and errors. The committee amendment would address these problems by requiring States to disregard the first $60 earned monthly by an individual working full time ($30 in the case of an individual working part-time), in lieu of individual itemized work expenses. In addition, reasonable child care expenses, subject to limitations prescribed by the Secretary, would then be disregarded. To preserve an incentive for additional earnings, but also to provide for a phaseout of welfare payments at a reasonable level, the committee amendment would provide for the disregard of one-third of remaining earnings, up to $300, plus one-fifth of remaining earnings above $500 a month. Thus, in a State where the payment standard is $300 a month for a family of four (in July 1976 the median State's payment standard was $317), the level of earnings at which a family would no longer be eligible for any AFDC payment would be $585 a month (assuming child care expenses of $100). A State which implements this section upon enactment and prior to the effective date would not be regarded as out of compliance with requirements imposed with respect to improved State plans under part A of title IV of the Social Security Act.

The following example compares the effects of present law and the committee bill.

Example: Recipient earns $500 per month, pays $200 for child care; pays $110 for union dues, parking fees, interest on automobile, withholding taxes, etc. State AFDC payment for family with no income would be $300.

	Amount
Present law:	
$500 is reduced by:	
Basic disregard	$30
33⅓ percent of earnings above basic disregard	157
Child care costs	200
Other work expenses	110
Total disregard	497
Family is paid in AFDC:	
$300 full payment less the $3 of earned income which is not disregarded	297
Committee bill:	
$500 is reduced by:	
Basic disregard	60
Allowable child care [1]	150
33⅓ percent of the 1st $300 of earnings above other disregards; 20 percent of earnings above that $300 [2]	97
Total disregard	307
Family is paid in AFDC:	
$300 full payment less the $193 of earned income which is not disregarded	107

[1] Assumes that HEW limit on deductible child care would be $150 for the individual in this example.

[2] In this example, the excess income above other disregards is only $290; thus the 20-percent factor does not come into play.

H. General Provisions

FRAUD INFORMATION

(Section 601 of the Bill)

Present law.—At the present time the responsibility for AFDC fraud activities rests primarily with the States. The Federal role has been limited to the provision of some technical assistance, the referral to State agencies of situations of fraud uncovered in Federal audits, and matching of 50 percent of the cost of welfare agency activities related to detection and pursuit of fraud. Although the Federal Government collects some statistics on fraud activities of the States, these are limited and incomplete. As a result, there is little information available by which to judge the extent of fraud in the AFDC program or the nature and extent of State and local actions to deal with it. Data for the program of Supplemental Security Income program are also inadequate.

Committee provision.—The committee amendment would require the Inspector General in the Department of Health, Education, and Welfare to collect and compile data relating to fraud in the AFDC and SSI programs to show the number of cases awaiting or under active investigation (and the amounts of money involved), the number of cases settled by administrative action, the number of cases referred for possible criminal prosecution, and the number of cases adjudicated (including the decision and any penalties imposed).

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ALIENS UNDER PUBLIC ASSISTANCE PROGRAMS

(Section 602 of the Bill)

Present law.—In order for an alien to be eligible for Supplemental Security Income or Aid to Families with Dependent Children payments under present law and regulations, he must be lawfully admitted for permanent residence or otherwise permanently residing in the United States "under color of law." The latter category refers primarily to refugees who enter as conditional entrants or parolees. An alien seeking admission to the United States must establish that he is not likely to become a public charge. If a visa applicant does not have sufficient resources of his own, a U.S. consular officer may require assurance from a resident of the United States that the alien will be supported. In addition, the Immigration and Nationality Act provides that an immigrant who becomes a "public charge" within 5 years of his entry into the United States may be deported if the cause of his becoming a "public charge" did not arise subsequent to his entry. However, receipt of SSI or AFDC payments does not constitute becoming a "public charge" under present court interpretations of that term.

There have been complaints, particularly in a few States, that legal aliens have been applying for and receiving welfare benefits within a very short period after their entry into the country. As welfare recipients, these aliens are also generally eligible for the full range of medicaid benefits offered within their State.

The General Accounting Office, in a study published in 1975, found that "large expenditures" of tax money, Federal and State, have been made to support immigrants and their families within 5 years after their entry.

In support of this finding the GAO stated that its analysis of 195 randomly selected immigrant welfare cases in Los Angeles County showed that 44 percent applied for assistance within 5 years after entry. More than half of these applied within 2 years after entry. An analysis of 100 immigrant cases in three Massachusetts cities (Cambridge, Lowell and New Bedford) showed that 58 cases received assistance within 5 years after entry, and 37 within 2 years. In New York City the GAO analyzed the cases of 110 permanent-resident aliens who applied for welfare within 5 years after they had entered as immigrants. It found that 37 percent received assistance within 1 year after their entry, and 59 percent within 2 years.

Committee provision.—The committee believes that it is reasonable and logical to consider aliens in cases such as these, who are receiving public money through the SSI and AFDC programs, as meeting the definition of "public charge." The committee also believes that the law should provide a deterrent to individuals and families who enter the United States with the expectation that they may apply for and receive welfare payments at any time after their entry. The committee bill would therefore amend the Social Security Act to provide that for purposes of the Immigration and Nationality Act the term "public charge" shall include recipients of SSI, State supplementary SSI payments, AFDC, and any other State or Federal public assistance program which is based on need, without regard to whether the alien who receives such assistance is liable to repay, or whether any demand is made for repayment. The committee notes that this provision would

in no way penalize those immigrants who come to the United States with the full intention of being self-supporting, but who as the result of causes which arise after their entry find that they must seek welfare assistance.

PUBLIC ASSISTANCE EXPENDITURES IN PUERTO RICO, GUAM, AND THE VIRGIN ISLANDS

(Section 603 of the Bill)

Present law.—Under existing law there is a dollar ceiling on Federal matching for costs of cash assistance, administration and social services provided under the programs of aid to families with dependent children and aid to the aged, blind, and disabled in the jurisdictions of Puerto Rico, Guam, and the Virgin Islands. The annual ceiling is $24 million for Puerto Rico, $1.1 million for Guam, and $0.8 million for the Virgin Islands. These limits have been in effect since 1972. In addition, these jurisdictions are limited to 50 percent Federal matching, whereas the States may receive from 50 to 83 percent Federal matching, depending on State per capita income.

The average payment in May 1977 for AFDC recipients was $10.89 in Puerto Rico, $50.71 in Guam, and $39.75 in the Virgin Islands, compared to a U.S. average of $75.56 per recipient. Average payments in December 1976 for the aged in these jurisdictions were $19.04 in Puerto Rico, $70.66 in Guam, and $55.94 in the Virgin Islands, compared to the average federally administered SSI payment of about $120.

Committee provision.—The committee believes that these funding restrictions have had the effect of maintaining an undesirably low payment level for all categories of recipients in these jurisdictions. The committee amendment would enable payment levels to be raised for needy families with children and for the aged, blind, and disabled by increasing the Federal matching percentage from 50 percent to 75 percent, while tripling the dollar limitations. This will permit the territories to double the size of their federally matched assistance under these programs with no increase in non-Federal matching. The amounts for each jurisdiction under present law and under the committee provision are shown in the table below. This provision would be effective on April 1, 1978.

FEDERAL FUNDS FOR ASSISTANCE PROGRAMS

	Present law (50 percent Federal matching)	Committee bill (75 percent Federal matching)
Puerto Rico	$24,000,000	$72,000,000
Virgin Islands	800,000	2,400,000
Guam	1,100,000	3,300,000

In addition, the committee amendment would treat the Northern Marianas in a manner comparable with Puerto Rico, the Virgin Islands, and Guam. Specifically, the committee amendment would

establish in the Northern Marianas the programs of aid to the aged, blind, and disabled, AFDC and medicaid subject to the same matching and a comparable overall limit on Federal funding ($570,000) as is provided for in the case of other territories.

STUDY OF COVERAGE OF EPILEPSY AND SIMILARLY DISABLING CONDITIONS UNDER MEDICARE

(Section 604 of the Bill)

The committee bill requires the Department of Health, Education, and Welfare to conduct a study of the problems faced by people with epilepsy or similarly incapacitating conditions in obtaining adequate health insurance coverage. The study will look into the availability of health insurance and other means of coverage of health care costs. In the study, the Secretary is to evaluate the advantages and disadvantages of covering such conditions under the medicare program.

III. REGULATORY IMPACT OF THE BILL

In compliance with paragraph 5 of rule XXIX of the Standing Rules of the Senate, the following statements are made concerning the regulatory impact of the bill.

TITLE I

Adoption assistance.—The bill establishes a new adoption assistance program for hard to place children who would otherwise continue in foster care under the aid to families with dependent children (AFDC) program. The regulations to be issued implementing the new adoption assistance program would affect the welfare agency employees and the children who would be eligible for the adoption subsidies and their adoptive parents. While the exact number of individuals affected cannot be estimated with precision, it would appear to be relatively small since the total number of children receiving foster care under the AFDC program is only about 100,000. While the program itself would provide economic assistance to families adopting hard-to-place children, the overall economic impact should be relatively neutral since the objective of the program is to provide the approximate level of assistance to the adoptive family which would have been provided had the child remained in foster care. The provision should generally have minimal impact on personal privacy except insofar as families applying for the benefits available under the program would have to disclose sufficient information about their financial status to permit a determination as to whether or not they meet the eligibility requirements. Additional paperwork will be required in the form of applications for benefits and provision of supporting material as well as statistical reporting by State welfare agencies concerning the implementation of the program. However, the paperwork involved should be roughly typical of that involved in other types of benefit programs under the Social Security Act and the overall amount of paperwork in view of the relatively small population served by this program would be insubstantial.

Foster care.—The bill essentially moves the existing AFDC foster care program to a new part of the Social Security Act (part E of

title IV) with some modifications. For the most part, the existing regulations governing the foster care program could be continued without change. However, the bill does expand eligibility under the program to certain public institutions which would be required to provide financial and other data in order to permit proper accounting for the benefits becoming payable to them. In addition, the bill sets an overall limit on Federal funding under this provision which would require certain additional statistical reports to be filed by State agencies for purposes of determining the applicability of this limit. The bill also places new emphasis on a requirement of existing law that institutional foster care payments be limited to those items which are comparable to the kind of care provided in family foster homes. This requirement, although not substantially different from existing law, has generally not been monitored in the past. Regulations implementing this provision will require institutions receiving funding through this authority to provide increased accounting of their expenditures to permit determinations to be made as to what part of their total expenditures are eligible for funding. This will require additional paper work and is likely to result in a lower rate of funding for some institutions. The total number of individuals and institutions affected is relatively small. As of March 1977, there were then 25,000 children reported as being in institutional foster care funded under this program.

Child welfare services.—Insofar as the existing level of Federal funding for the child welfare services program under title IV–B of the Social Security Act is concerned, the changes made by the bill should not result in any substantial regulatory impact. The bill, however, does provide that if Federal funding for the program is increased in future years by appropriations action, a part of the funding can be earmarked for developing and carrying out a specific program for conducting an inventory of children in foster care coupled with the institution of a statewide information system, a case review system, and a service program aimed at more permanent placement of children either by return to their own families or through adoption or legal guardianship. Participation in this part of the program would be voluntary on the part of the States. If, however, a State elects to participate in this program, regulations would be necessary to carry out its requirements. These regulations would affect the children in State-supervised foster care in each participating State including both foster care funded under the AFDC foster care provisions and foster care otherwise supervised by the State. For the population affected, there would appear to be a likelihood of some increased level of paperwork in that additional procedural requirements would have to be complied with. The total number of individuals affected by these provisions would depend on how many States elected to participate in the program. Overall, it is estimated that somewhat less than a million children are in foster care nationally.

Title II

Title II with relatively minor modifications extends existing funding and other provisions of present law related to the child care and social services programs under title XX of the Social Security Act. The regulatory impact of title II is expected to be negligible.

TITLE III

Title III of the bill makes several amendments to the supplemental security income (SSI) program of income assurance for needy aged, blind, and disabled individuals. The SSI program provides benefits to approximately four million persons. The bill modifies a number of the statutory provisions under which this program is operated. Since this is administered as a direct Federal program, it is expected that most of the regulations issued hereunder will simply amount to restatements of the statutory provisions. Most of the provisions will affect relatively small portions of the four million recipients and the overall regulatory impact of this title is therefore expected to be minimal. Several provisions, in fact, are designed to simplify the program or relieve individuals of certain restrictions now imposed. Certain of the sections of this title would require some regulatory activity, for example, section 311 provides for the establishment of a corps of SSI recipients to be employed by the States in an information and referral capacity. This authority would require departmental guidelines to be followed by State welfare agencies. However, the authority is limited to a total of 1,000 full-time positions or the equivalent. Similarly, section 314 authorizes the establishment of a emergency assistance program to be administered by State social service agencies for meeting urgent situations encountered by SSI recipients which are not funded through the basic SSI program. These agencies would be required to submit State plans and to operate those plans in accord with departmental regulations. However, it is the intent of this legislation that great flexibility be provided to the States in operating these programs and the regulatory impact and amount of paperwork required should be much less than is true for Federal programs generally. Overall, the net impact of the SSI title of the bill should be to relieve somewhat the complexity of the existing program without creating any substantial regulatory impact.

TITLE IV

Title IV of the bill provides for a one-time fiscal relief payment to the States (in two installments) designed to help meet State and local welfare costs. The first installment involves no regulatory impact. The second installment would be based on improvement in State welfare error rates through June 1978. Since the formula used would be based on quality control reports made under existing regulations, this provision would also have no significant regulatory impact.

TITLE V

Title V of the bill contains a number of amendments designed to improve the operations of the aid to families with dependent children (AFDC) program. The AFDC program is a State-operated assistance program which receives Federal matching funds through title IV of the Social Security Act. As of March 1977, 11.3 million individuals were recipients of benefits under this program. The regulatory impact of the provisions in title V of the bill are largely confined to these individuals and to the State and local welfare agencies which administer the program and their employees.

Quality control system.—The bill establishes with a statutory basis a quality control system. In large measure this system is already implemented and regulations required by the bill would be mainly amendatory in nature involving little new regulatory impact. While there would be some additional requirements not now included in the system, the impact would be largely on State and local administrative personnel rather than on recipients directly. The level of paper work required would be increased somewhat. However, a provision also adds fiscal incentives to the quality control program and is expected overall to improve the accuracy of State welfare operations. Accordingly, any increased cost to States through additional paperwork can be expected to be more than offset by the savings in program cost and by the incentive payments available. Similarly, the bill includes several sections designed to encourage better administration by making available favorable matching rates for certain activities such as the issuance of recipient identification cards, the establishment of fraud control units, and the development of mechanized information systems. These provisions all would entail some increased paperwork and would involve a certain amount of regulatory impact by the Federal Government on those States which elect to implement these provisions. However, the net impact should be an economic savings to the States through improved administration and in some respects the new provisions themselves could reduce paperwork requirements (e.g., through the development of more highly computerized operations).

Several sections of the AFDC title are designed essentially to lessen the existing regulatory impact of the aid to families with dependent children statute on the States by permitting at State option certain administrative changes which are not allowable under existing law. For example, section 505 allows States at their option to modify the method of determining eligibility for benefits. Section 506 primarily would result in giving State audit agencies greater flexibility in examining welfare program operations and sections 522 and 523 would permit States to undertake certain types of work programs in connection with the aid to families with dependent children population which are not permitted under existing law. While some regulations would have to be developed and complied with in the implementation of these sections, the committee believes that States would find the sections themselves and the regulations thereunder to represent a net lessening of regulatory impact.

The bill also contains several sections related to AFDC which would have direct impact on individual recipients. For example, sections dealing with the earned income disregard provision would modify and in many cases reduce the allowable deductions under the program. This would involve regulations both implementing the statutory provisions and to some extent interpreting them (for example, the bill provides that child care expenses would be allowed as a deduction only to the extent that the Department specifies as reasonable in regulations). The regulations would have an impact on those recipients who are employed.

Title V of the bill also contains several amendments designed to strengthen and improve the child support enforcement program. The regulatory impact of these provisions is minimal and are limited to the families who are being aided by the programs and to State and

local agencies administering the program. Section 512 relating to Federal matching for compensation of judges and other court personnel for services clearly identifiable with and directly related to services performed under the child support enforcement program will clarify the intent of Congress and the law and lessen the regulatory impact of the current regulations.

TITLE VI

Title VI of the bill includes three provisions relating to social welfare programs. Section 601 requires the Inspector General of HEW to compile and publish fraud data and would require minimal regulatory impact mainly affecting State and local welfare agencies who would be required to compile and transmit certain additional data to the Inspector General. Section 602 redefines the term "public charge" as it applies to aliens receiving public assistance. The provision is essentially self-executing and would require minimal regulatory discretion. The impact of the provision would be mainly to discourage persons in other countries from coming to the United States with a view toward receiving welfare assistance. Section 603 has no regulatory impact.

TITLE VII

Title VII increases Federal funding for public assistance programs in Guam, the Virgin Islands, and Puerto Rico. Apart from regulations implementing the increased funding, no regulatory impact should result from these provisions. Title VII also extends to the Northern Marianas the welfare programs now applicable to the other territories. This would require HEW regulations to become applicable to that jurisdiction in the same manner as they are applicable to the other territories.

IV. VOTE OF THE COMMITTEE IN REPORTING THE BILL

In compliance with section 133 of the Legislative Reorganization Act of 1946, the following statement is made relative to the vote by the committee to report the bill.

The bill was ordered reported by a vote of 8 to 3.

V. BUDGETARY IMPACT OF THE BILL

In compliance with section 252(a) of the Legislative Reorganization Act of 1970 and sections 308 and 403 of the Congressional Budget Act, the following statements are made relative to the costs and budgetary impact of the bill.

Pursuant to section 302(d) of the Congressional Budget Act of 1974, the Committee on Finance submitted a report (Senate Report 95–457) to the Senate on September 29, 1977, subdividing among programs the allocations of budget authority and outlays designated for the committee in the conference report on the second concurrent resolution on the budget for fiscal year 1978. The bill affects the following program categories covered by that report: Assistance programs; social services; fiscal relief for State and local welfare costs. The following table shows the committee allocations presented in that report for those programs.

FINANCE COMMITTEE BUDGET ALLOCATIONS FOR FISCAL YEAR 1978

[In billions of dollars]

Program	Budget authority			Outlays		
	Controllable amounts	All other amounts	Total	Controllable amounts	All other amounts	Total
Assistance programs; AFDC, SSI, etc.	−0.3	11.6	11.2	−0.3	12.0	11.7
Social services	+.1	2.5	2.6	+.1	2.5	2.6
Fiscal relief for State and local welfare costs	+.5	.....	.5	+.5	.....	.5

As shown in the above table, the committee in its allocation report allowed for legislation increasing social services funding by $0.1 billion providing a new one-time program of fiscal relief for State and local welfare costs involving increased Federal funding of $0.5 billion for fiscal year 1978, and involving a new reduction in Federal spending under assistance programs (AFDC, SSI, etc.) of $0.3 billion. H.R. 7200, as reported, conforms with each of these allocations. The budget allocation report of the committee also projected a reduction in social security expenditures of $0.4 billion in fiscal year 1978. A savings in excess of that amount is accomplished in the bill H.R. 5322 which has been reported by the committee.

COMMITTEE ESTIMATES

Estimates by the committee of the costs and savings of the bill for fiscal years 1978–82 are presented in the table below.

TABLE 16.—COMMITTEE ESTIMATES OF THE COST IMPACT OF THE BILL

[In millions]

Provision	Cost impact in fiscal year [1]				
	1978	1979	1980	1981	1982
Adoption, Foster Care, Child Welfare					
Sec. 101:					
Adoption assistance.	0	0	0	0	0
Ceiling on foster care funding.....	−$2	−$7	−$15	−$19	−$21
Foster care funding in certain public institutions.....	+2	+4	+6	+9	+12

See footnotes at end of table.

TABLE 16.—COMMITTEE ESTIMATES OF THE COST IMPACT OF THE BILL—Continued

[In millions]

Provision	Cost impact in fiscal year [1]				
	1978	1979	1980	1981	1982
Adoption, Foster Care, Child Welfare—Con.					
Secs. 102–103: Modifications in child welfare services program [2]	+63	+150	+210	+210	+210
Social Services Child Care					
Sec. 201: Increase in child care, social services funding	+100	+150	+200	+200	+200
Sec. 202: Social services funding for territories	0	0	0	0	0
Supplemental Security Income					
Sec. 301: Attribution of parent's income	−2	−2	−3	−3	−3
Sec. 302: In-kind income	+15	+16	+17	+18	+19
Secs. 303–306: Treatment of disaster relief	([3])	([3])	([3])	([3])	([3])
Sec. 307: Mandatory State supplementation changes	0	0	0	0	0
Sec. 308: Accounting and reporting experiments	([3])	([3])	([3])	([3])	([3])
Sec. 309: Advances of title II entitlement	−17	−18	−19	−20	−21
Sec. 310: Increase in institutional rate	+3	+13	+13	+13	+13
Sec. 311: Use of recipients for information and referral	+1	+3	+3	+3	+3

TABLE 16.—COMMITTEE ESTIMATES OF THE COST IMPACT OF THE BILL—Continued

[In millions]

Provision	Cost impact in fiscal year [1]				
	1978	1979	1980	1981	1982
Supplemental Security Income—Con.					
Sec. 312: Direct payment to certain addicts and alcoholics.	([3])	([3])	([3])	([3])	([3])
Sec. 313: Exclusion of burial resources	([3])	([3])	([3])	([3])	([3])
Sec. 314: Emergency needs program [2]	0	10	11	12	13
Sec. 315: Guidelines for Federal/State liability	0	([3])	.....		
Sec. 316: State liability for certain incorrect medicaid cost	([3])	([3])	([3])	([3])	([3])
Sec. 317: Sheltered workshop income	+2	+2	+2	+2	+2
Sec. 318: Departmental reports	([3])	([3])	([3])	([3])	([3])
Fiscal Relief					
Sec. 401: Fiscal relief for welfare costs	+500	+400	0	0	0
AFDC Provisions					
Sec. 501:					
Quality control	([3])	([3])	([3])	([3])	([3])
Incentives for low error rate	−35	−40	−50	−60	−70
Sec. 502: Identification cards	−9	−9	−10	−11	−12
Sec. 503: Increased matching for anti-fraud measures	([3])	([3])	([3])	([3])	([3])
Sec. 504 (technical)	0	0	0	0	0
Sec. 505: Prorating AFDC benefits in certain cases	−104	−109	−114	−124	−131

TABLE 16.—COMMITTEE ESTIMATES OF THE COST IMPACT OF THE BILL—Continued

[In millions]

Provision	Cost impact in fiscal year [1]				
	1978	1979	1980	1981	1982
AFDC Provisions—Continued					
Sec. 506: Disclosure of AFDC information	([4])	([4])	([4])	([4])	([4])
Sec. 507: Management information system	+7	+7	+8	+8	+9
Sec. 508: Access to wage information	([4])	([4])	([4])	([4])	([4])
Sec. 509: Child support for non-AFDC families [5]	(0)	(+40)	(+43)	(+45)	(+47)
Sec. 510: Child support matching procedures	([3])	([3])	([3])	([3])	([3])
Sec. 511: Distribution of certain child support collections	−4	−5	−6	−6	−6
Sec. 512: Matching for personnel [5]	(+8)	(+11)	(+12)	(+13)	(+14)
Sec. 513 (technical)	0	0	0	0	0
Sec. 514: AFDC vendor payments	([3])	([3])	([3])	([3])	([3])
Sec. 520: WIN modifications	−43	−55	−60	−65	−70
Sec. 521: Treatment of unreported earnings	−23	−24	−26	−28	−30
Sec. 522: State demonstration projects	([4])	([4])	([4])	([4])	([4])
Sec. 523: Community work and training	−14	−15	−29	−58	−58
Sec. 524: Earned income disregard	−175	−230	−241	−261	−276
General Provisions					
Sec. 601: Compilation of fraud data	([4])	([4])	([4])	([4])	([4])
Sec. 602: Aliens receiving public assistance	−43	−46	−48	−53	−56

TABLE 16.—COMMITTEE ESTIMATES OF THE COST IMPACT OF THE BILL—Continued

[In millions]

Provision	Cost impact in fiscal year [1]				
	1978	1979	1980	1981	1982
General Provisions—Continued					
Sec. 603: Coverage of epilepsy study	0	0	0	0	0
Secs. 701–702: Increased matching for territorial programs	+26	+52	+52	+52	+52
Sec. 703: Assistance programs in Marianas	([3])	([3])	([3])	([3])	([3])
Totals					
A. Assumed appropriations (secs. 102, 103, 314)	+63	+160	+221	+222	+223
B. Entitlements:					
Social services (secs. 201, 202)	+100	+150	+200	+200	+200
Assistance programs (AFDC/SSI, etc.)	−415	−463	−549	−603	−631
Fiscal relief (sec. 401)	+500	+400	.....	.....	.....

[1] Amounts shown represent estimated outlays during fiscal year. The committee assumes that budget authority to meet these outlays would be enacted in the same amounts for the same fiscal years.

[2] Amounts shown assume increased appropriations for this program.

[3] Amount would be negligible or would involve at least offsetting savings.

[4] Although no specific savings can be estimated for these sections, their combined impact can be anticipated to reduce program costs. See discussion below.

[5] Amounts shown represent estimates received by the committee of the cost of implementing the provision. These amounts are shown since they are more than negligible. However, they are not included in the totals since the committee is convinced that the implementation of these provisions will in fact reduce costs substantially more than the amounts shown.

The above table represents the committee's best estimate of the net impact of the bill on Federal expenditures. During the course of considering the bill and preparing the report, the committee received estimates of the cost of provisions prepared by the Administration and also consulted with the Congerssional Budget Office. A formal estimate was received from the Congressional Budget Office on November 1, 1977. This CBO estimate is included in this report. The CBO

estimate differs in some respects from the committee estimates shown in the table. A discussion of the reasons for the committee estimates and areas of difference with the CBO or Administration estimates is given below.

Foster care.—As of the time the report was prepared, the committee had not received Administration estimates of the net cost impact of the foster care provisions. The committee believes that the broadening of foster care funding by permitting such funding in public institutions will have modest costs particularly in the early years since the provision is on a prospective basis. The ceiling on foster care funding should result in some reduction in the cost of this program and some reduction should also arise from the improved monitoring of the statutory limitation on the types of costs which may be matched in the case of institutional foster care.

Child care.—The committee bill increases the limit on child care funding by $200 million effective with fiscal year 1978. While reports with respect to fiscal year 1977 use of this added funding are very sketchy and inconclusive, it appears that a substantial amount of the increased funding either was not used or was used in a manner which decreased costs under the basic $2.5 billion entitlement ceiling. The committee believes that it is reasonable to anticipate, particularly since the fiscal year has already commenced, that no more than half of the increased ceiling will in fact be used in fiscal 1978.

Supplemental security income.—The estimates of the committee in the SSI area are largely based on estimates provided by the Administration.

Fiscal relief.—The fiscal relief provisions of the bill will provide an entitlement of $500 million for fiscal year 1978 and a potential entitlement of $500 million for fiscal 1979. The committee anticipates that the States will make considerable efforts to attain the maximum entitlement in fiscal 1979 and that there will consequently be paid out a total of $400 million in that year under the provision.

Aid to families with dependent children and child support enforcement.—The committee estimates of the cost and savings of aid to families with dependent children rely heavily on estimates provided by the Administration. The committee notes, however, that this is an area in which estimates are based on assumptions as to future behavior of States and individuals for which little if any reliable guidelines for prediction exist. In particular, the Congressional Budget Office estimate with respect to the impact of the work incentive program shows no savings (in fact, it shows the provision as adding costs over existing law). The committee believes that this represents a judgemental decision on the part of CBO estimators as to whether or not a particular new legislative initiative will be effective. The committee believes that its judgment and that of the agency charged with administering the program provide a better guide for developing an estimate of the potential savings to be realized. Similarly, the committee notes that the estimated savings under section 505 made by the Administration exceeds the estimate made by CBO in this area. Again, however, the exact amount to be saved depends upon assumptions as to how many States will implement the provision and in which ways. The committee believes that those who will ad-

minister the program at the Federal level are probably in the best position to make such judgments.

The table above shows specific dollar estimates as costs for sections 509 and 512. These amounts have little impact on fiscal 1978. However, the committee believes it would be inaccurate to show them as costs and has therefore not included them in the totals. Both of these items represent the cost of implementing the provision without any allowance for the savings to be generated. In the case of child support matching for nonwelfare families, it is quite clear from the experience with respect to welfare families that the savings which can be realized through the child support enforcement program far outweigh the costs. While the exact amount of savings from keeping families off welfare by obtaining support from absent parents has not been calculated, the committee is convinced that it would substantially exceed the cost of the provision. Similarly, the provision authorizing matching of certain increased court costs for handling child support cases clearly will result in a net savings. The provision pays only for incremental costs and States will not be likely to put up the non-Federal matching share unless they forsee a profit in doing so. Given the known backlog of unprocessed child support cases the potential for such savings seems very significant.

The committee also wishes to call attention to the fact that the various provisions of title V taken together (particularly those shown under footnote 4) can be reasonably expected to result in significant savings in the AFDC program even though many of them may not be possible to estimate with any degree of precision. Thus, the committee would expect that the fiscal year 1978 savings of $372 million should be considered a minimal estimate rather than an optimistic estimate.

Alien provision.—The estimate of savings attributable to the provision of the bill dealing with aliens (section 602) is based on an estimate provided by the Administration.

Overall impact.—The budgetary impact of the bill, under the committee estimates, will result in fiscal year 1978 expenditures which are well within the limits of the second concurrent resolution as measured against the budget allocation report issued by the committee. In addition, the committee notes that, in the income security function of the budget, the second concurrent resolution total as allocated by this committee assumed a savings of $400 million in social security outlays in fiscal 1978. The social security bill being concurrently reported by the committee provides savings somewhat in excess of that amount.

COMPARISON WITH ADMINISTRATION ESTIMATES

The estimates shown in table 16 for the following sections are estimates made by the Administration: Sections 302, 309, 310, 317, 502, 505–508, 510, 511, 521–523, 601, and 602. (Sections footnoted 3 or 4 in the table were estimated by the Administration as negligible or no cost.)

No estimate has been received from the Administration as to the net cost of section 101. The Administration provided an estimate that foster care under the committee bill would involve Federal costs of $261 million in fiscal 1978 rising to $382 million in fiscal 1982. This

estimate apparently includes present law cost as well as the impact of the committee bill.

The Administration estimates for section 311 are consistent with the committee estimates for fiscal years 1979 through 1982. The committee believes that fiscal 1978 costs will be somewhat less because of reasonable first-year delay in implementing the program.

The Administration estimate for section 401 for fiscal 1978 is the same as shown in the table. The Administration did not provide an estimate for fiscal 1979 other than indicating that the maximum cost would be $500 million.

The Administration estimates for sections 509 and 512 are the same as shown in the table. As noted above, however, the committee believes that these represent the cost of implementing the provisions but do not reflect offsetting savings which would be, in the committee's view, higher than the implementation cost.

The fiscal 1978 estimate for section 520 is based on Administration supplied estimates. No estimate was supplied for subsequent years. The amount shown represents the committee projection of the fiscal 1978 Administration estimate.

The estimates shown in the table for section 524 are Administration estimates except for fiscal 1978 in which the committee reduced the Administration estimated savings of $219 million to take account of the fact that this provision will be in effect for less than a full year.

The committee estimates for sections 701, 702, and 703 are $31 million for fiscal 1978, $48 million for fiscal 1979, and $51 million for fiscal years 1980 to 1982. Since these sections provide statutory limits for funding, the committee believes that its estimates more nearly reflect the provisions in the bill.

The Administration either provided no estimate or indicated that it was unable to estimate the cost of sections 102, 103, 201, 202, 301, 303–308, 312–316, 318, 501, 503, and 514. The committee estimates with respect to the savings to be anticipated through the incentives provided under sections 501 and 401 (shown in the table under section 501) were made on the basis of consultations with Administration cost estimators and the Congressional Budget Office.

CBO ESTIMATE

The estimate prepared by the Congressional Budget Office is printed below:

CONGRESSIONAL BUDGET OFFICE,
U.S. CONGRESS,
Washington, D.C., November 1, 1977.

Hon. RUSSELL LONG,
Chairman, Committee on Finance,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has prepared the attached cost estimate for H.R. 7200, the Public Assistance Amendments of 1977.

Should the committee so desire, we would be pleased to provide further details on the attached cost estimate.

Sincerely,

ALICE M. RIVLIN, *Director*.

CONGRESSIONAL BUDGET OFFICE—COST ESTIMATE

1. Bill Number: H.R. 7200.
2. Bill title: Public Assistance Amendments of 1977.
3. Bill status: As ordered reported by the Senate Finance Committee, November 1, 1977.
4. Bill purpose: [1]

Title I: To amend the Social Security Act with regard to adoption and foster care, and child welfare services.

Title II: To make certain amendments to the social services program.

Title III: To modify a number of provisions in the Social Security Act dealing with supplemental security income.

Title IV: To provide fiscal relief for States with respect to AFDC programs.

Title V: To amend a number of parts of the Social Security Act relating to aid to families with dependent children.

Title VI: To make certain general provisions relating to welfare.

Title VII: To modify federal financial participation in public assistance programs in Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands.

5. Cost estimate:

[In millions of dollars]

Title and section	Fiscal year— 1978	1979	1980	1981	1982
Title I:					
101 (add to Social Security Act sec. 471)	10.0	10.5	11.1	11.6	12.3
101 (add to Social Security Act sec. 474)	−.9	−7.0	−14.8	−19.4	−21.1
Total, title I	9.1	3.5	−3.7	−7.8	−8.8
Total, title II, 201	200.0	200.0	200.0	200.0	200.0
Title III:					
301	−1.7	−2.3	−2.6	−2.9	−3.2
302	7.5	7.5	8.0	8.0	8.5
309	−17.0	−18.0	−19.0	−20.0	−21.0
310	3.2	12.6	12.6	12.6	12.6
311	1.0	2.0	3.0	3.0	3.0
314	0	0	10.0	10.0	10.0
317	2.0	2.1	2.2	2.3	2.4
Total, title III	−5.0	3.9	14.2	13.0	12.3
Total, title IV, 401	465.0	399.0	−32.0	−16.0	−8.0

[1] See attached section-by-section analysis.

[In millions of dollars]

Title and section	Fiscal year— 1978	1979	1980	1981	1982
Title V:					
501	.7	−.2	−.7	−.7	−.8
502	−9.0	−9.0	−10.0	−11.0	−12.0
505	−20.5	−43.5	−50.6	−56.0	−62.2
507	6.7	49.1	31.5	−6.2	−6.2
509		40.0	43.0	45.0	47.0
510 and 511	−2.0	−2.0	−2.5	−2.5	−2.5
512	7.5	11.0	11.8	12.7	13.5
513	5.0	5.2	5.5	5.8	6.1
520	36.3	76.8	81.4	86.2	91.4
521	−23.0	−24.0	−26.0	−28.0	−30.0
522	0	0	0	0	0
523	−.6	−1.9	−2.5	−4.5	−4.6
524	−175.0	−230.0	−241.0	−261.0	−276.0
Total, title V	−173.9	−128.5	−160.1	−220.2	−236.3
Total, title VI, 602	−21.3	−45.9	−48.3	−52.7	−55.7
Total, title VII, 702 and 703	25.9	52.4	52.4	52.4	52.4
Total, H.R. 7200	499.8	484.4	22.5	−31.3	−44.1

6. Basis for estimate.

TITLE I

Section 101.—Foster care maintenance payments program (add section 471 to title IV of Social Security Act.).

Federal payments for foster home care of dependent children in public institutions with no more than twenty-five children.

Because some States have AFDC-eligible children in public institutions who are not currently receiving federally subsidized foster care, this provision will lead to an additional cost of subsidizing these foster care children. CBO estimates that these additional children will cost the Federal Government $10 million in fiscal year 1978.

It has been argued that public care would have a smaller average cost than the private care currently paid for with Federal matching, and that the introduction of public care would therefore result in a savings in expenditures. However, the differences did not seem to be significant enough to consider in estimating the cost of the provision.

Fiscal year:	*Millions*
1978	$10.0
1979	10.5
1980	11.1
1981	11.6
1982	12.3

Section 101.—Adoption assistance program (add section 472 to title IV of Social Security Act.)

This program provides for Federal participation in adoption subsidies for foster care children with special needs as determined by the State. The adoption subsidy is limited to families of a given size with incomes not greater than 115 percent of the State's median income (for that size family). Because the subsidy is limited to children who would

have received foster care in any case and because it cannot exceed what the foster care payment would have been, CBO anticipates a small savings from this provision. Offsetting this are increased administrative costs and subsidies for children who might have been adopted anyhow. CBO estimates the net effect to be a cost of zero.

Section 101.—Payments to States; allotments to States (add section 474 to title IV of Social Security Act.)

Subsection (b)(3)(A).—For several years the Federal cost for foster care has risen quite rapidly as states have taken advantage of the foster care program. This provision puts a ceiling on how much this program may expand. For fiscal year 1978, the allotment of each State shall be equal to 120 percent of its allotment for the preceding fiscal year. For fiscal years 1979–1982 the allotment shall be 110 percent of the allotment for each preceding fiscal year, or if greater, the amount provided for under subparagraph (B) of this section. Assuming a federal share amount of $192.5 million for fiscal year 1977, the following table shows the impact of (b)(3)(A) on program expenditures.

AFDC—FOSTER CARE, FEDERAL SHARE

Fiscal year	Projected no ceiling costs	Projected costs given the proposed ceiling	Difference (savings)
1977	192.5	192.5	.....
1978	231.85	231.0	−0.85
1979	264.06	254.1	−9.96
1980	296.27	275.51	−20.76
1981	328.48	303.061	−25.419
1982	360.49	333.367	−27.123

These savings are mitigated somewhat by the following subsection, under which States have an additional option.

Subsection (b)(3)(B).—The amount of any State's allotment, for any fiscal year referred to in subparagraph A, shall be an amount which bears the same ratio to $100 million as the under age 21 population of such State to the under age 21 population of the 50 States and the District of Columbia. The following table shows the impact of (b)(3)(B) on program expenditures.

AFDC—Foster Care

Fiscal year:	
1978	0
1979	3
1980	6
1981	6
1982	6

The costs indicated for (b)(3)(B) will offset some of the savings shown for (b)(3)(A). The following table summarizes the cost/savings impact of both subparagraphs.

Fiscal year	Projected no ceiling costs	Projected costs given the proposed ceiling under (b)(3)(A) alone	Additional costs as given by the added option (b)(3)(B)	Difference between A+B and no ceiling (saving)
1977	192.5			
1978	231.85	231.0	0	−0.85
1979	264.06	254.1	3	−6.96
1980	296.27	275.51	6	−14.76
1981	328.48	303.061	6	−19.419
1982	360.49	333.367	6	−21.123

Fiscal year:	*Millions*
1978	−$.85
1979	−6.96
1980	−14.76
1981	−19.419
1982	−21.123

TITLE II

Section 201.—Increase in ceiling on Federal social services funding extension of special provisions relating to child day care services.

This provision entitles the States to an additional $200 million each year for social services (specifically for child care in fiscal year 1978). Based on information from the Department of HEW, CBO projects that this provision will result in an additional $200 million in outlays in fiscal year 1978 and each ensuing year.

Fiscal year:	*Millions*
1978	$200
1979	200
1980	200
1981	200
1982	200

TITLE III

Section 301.—Attribution of parents' income and resources to children.

Under this provision disabled children age 18 and over are considered to be eligible individuals in their own right whether they are in school or not. As a result, those 18 to 21 year old individuals who are students and living at home will be subject to the one-third reduction in benefits, as individuals living in the household of another, rather than having a portion of their parents' income attributed to them. It is expected that, although some new cases will become eligible as a result of this change, many disabled children currently on the rolls will have their benefits reduced, thereby resulting in a net savings.

Fiscal year:	*Millions*
1978	−$1.7
1979	−2.3
1980	−2.6
1981	−2.9
1982	−3.2

Section 302.—In-kind income.

This section establishes that only cash income which is available for the support and maintenance of the beneficiary will be counted as income. In any case where the beneficiary receives regular contributions in-kind towards his shelter or food needs, the amount of his maximum benefit would be reduced by one-third unless he can establish that the actual value of such contributions is of a lesser amount. The bulk of the cost associated with this provision results from allowing those persons living in the household of another the right to rebut the one-third reduction. Reports from SSA show that only one-tenth of 1 percent of persons living in their own households report in-kind income.

Fiscal year:	*Millions*
1978	$7.5
1979	7.5
1980	8.0
1981	8.0
1982	8.5

Section 303.—Exclusion from income of certain disaster assistance.

This removes the time limit on exclusion from income of disaster relief payments.

Fiscal year:	*Millions*
1978	(1)
1979	(1)
1980	(1)
1981	(1)
1982	(1)

[1] Less than $500,000.

Section 304.—Treatment of support and maintenance in the case of victims of certain disasters.

Removes the time limit.

Fiscal year:	*Millions*
1978	(1)
1979	(1)
1980	(1)
1981	(1)
1982	(1)

[1] Less than $500,000.

Section 305.—Exclusion from income of interest received on certain disaster relief funds.

This further liberalizes the treatment of disaster relief payments by providing that, for a period of 9 months after the receipt of such payments, any interest paid on these payments will not count as income.

Fiscal year:	*Millions*
1978	(1)
1979	(1)
1980	(1)
1981	(1)
1982	(1)

[1] Less than $500,000.

Section 306.—Exclusion from resources of certain disaster assistance and interest income therefrom.

This provides that disaster relief payments and any interest paid on such funds shall not be considered as assets in determining SSI eligibility.

Fiscal year:	
1978	(1)
1979	(1)
1980	(1)
1981	(1)
1982	(1)

[1] Less than $500,000.

Section 307.—Termination of mandatory minimum state supplementation in certain cases.

This provides for the elimination of the mandatory state supplementation requirement for individuals who no longer benefit from the provision, and clarifies certain other areas.

There will be no Federal cost impact.

Section 308.—Secretary to conduct experiments regarding eligibility accounting periods and reports regarding changes in circumstances.

This section directs the Secretary to conduct experiments with various accounting periods and income reporting methodologies. As SSA has not yet determined how this would be implemented, we are unable to make an estimate of the cost.

Section 309.—Overpayments in the case of certain recipients of monthly insurance benefits under title II of the Social Security Act.

This change provides that, for those individuals receiving both SSI and social security benefits, adjustments for errors in payment amounts will apply to the net difference in the total payment from both programs. The estimate shown below is based on a preliminary analysis performed by SSA. An in-depth study of the impact of this provision is currently being conducted by the agency.

Fiscal year:	*Millions*
1978	−$17
1979	−18
1980	−19
1981	−20
1982	−21

Section 310.—Eligibility of individuals in certain medical institutions.

This amendment provides an increase of $5 a month in the monthly payment to persons in medical facilities which receive medicaid reimbursement in their behalf. The provision would be effective July 1, 1978 and should affect approximately 200,000 individuals a month.

Fiscal year:	*Millions*
1978	$3.2
1979	12.6
1980	12.6
1981	12.6
1982	12.6

Section 311.—Employment of recipients for information and referral.

This provision directs the Secretary to enter into agreements with the States to hire and train SSI recipients to serve in SSA and local public assistance offices to provide information and referral services to persons receiving or seeking benefits under SSI or other public assistance programs. Funding is authorized for 1000 man-years at $5,000 per man-year. Should the program be fully implemented, the

$5 million cost of these public service jobs could be expected to be offset by approximately $2 million in savings to SSI benefit costs.

Fiscal year:	Millions
1978	$1
1979	2
1980	3
1981	3
1982	3

Section 312.—Modification of requirement for third-party payee.

This measure would eliminate the requirement of a third-party payee in the case of alcoholics and addicts if the attending physician certifies that direct payment will be of significant therapeutic value to the individual.

There would be no cost for this provision.

Section 313.—Exclusion from resources of assets designed to meet burial expenses.

This amendment will allow a beneficiary to exclude from countable assets a burial fund of up to $1,500 in lieu of the presently allowed exclusion of a life insurance policy with a face value of up to $1,500. It is not possible to estimate with any certainty the number of persons who would elect to establish such burial funds. However, since beneficiaries can presently achieve the same result through an insurance policy, it is expected that the increase to Federal expenditures would be negligible.

Fiscal year:	Millions
1978	(1)
1979	(1)
1980	(1)
1981	(1)
1982	(1)

[1] Less than $500,000.

Section 314.—Nonrecurring emergency needs.

This section establishes a program of Federal matching funds (at the rate of 50 percent) for State programs to provide nonrecurring emergency assistance to SSI recipients. The program would be administered by the same agencies responsible for State social services programs. The program would operate as an authorization with the funding limited to $10 million for fiscal year 1980 and to such amounts as may be appropriated in subsequent years.

Fiscal year:	Millions
1978	0
1979	0
1980	$10
1981	10
1982	10

Section 315.—Liability for Federal errors in administering State supplemental benefits.

This amendment provides statutory authority for Federal fiscal liability in the Federal administration of State supplemental benefit programs. Under current practice an error tolerance rate of 3 to 5 percent of State caseload levels is used. This provision would establish an error tolerance of 4 percent of the total State supplemental payments made in the State. Although an error tolerance rate based on cases and one based on payments will not correspond in each State,

the savings which would result from the change in some States are expected to balance the costs which would result in other States. This section would also end federal fiscal liability for State Supplemental benefit programs after fiscal year 1979. SSA has been unable to determine the amount of savings which would result annually from ending Federal liability.

Fiscal year:	*Millions*
1978	(1)
1979	(1)
1980	(2)
1981	(2)
1982	(2)

[1] Less than $500,000.
[2] Not available.

Section 316.—States not to be liable for unrecovered Federal share of erroneous medicaid payments attributable to Federal errors.

This provision establishes that HEW shall be liable for unrecoverable medicaid payments made based upon an erroneous determination of eligiblity for SSI.

Fiscal year:	*Millions*
1978	(1)
1979	(1)
1980	(1)
1981	(1)
1982	(1)

[1] Less than $500,000.

Section 317.—Earned income in sheltered workshops.

This section changes the treatment of income received by individuals in sheltered workshops. Under current law, if the income is received as part of a rehabilitation program it is counted as unearned income. This change would provide that all earnings of individuals in sheltered workshops are counted as earned income, and therefore, eligible for the earned income disregards.

Fiscal year:	*Millions*
1978	$2.0
1979	2.1
1980	2.2
1981	2.3
1982	2.4

[1] Less than $500,000.

Section 318.—Report to Congress concerning future administration of SSI.

This provision directs the Secretary to report to Congress on the future manpower needs for administering SSI, and on recommended policy and legislative changes to restore statutory integrity to the program.

This will result in no Federal cost.

TITLE IV

Section 401.—Fiscal relief for States with respect to AFDC programs.

This section would provide for $500 million fiscal relief to states on or shortly after October 1, 1977 and up to $500 million on October 1, 1978. The allocation of the funds to states shortly after October 1, 1977 would be reckoned such that each state's proportion of the $500

million is an average of its proportion of AFDC costs for December 1976 and a proportion based on the revenue sharing formula. The payments made to states on October 1, 1978 would be fractions of the October 1, 1977 payments. If a state has under a 4 percent error rate in the period January–June 1978, it would get its full October 1, 1977 payment. If the state has over a 4 percent error rate, it would get the fraction of its October 1, 1977 payment that its error rate has dropped to 4 percent from what it was either for the period for July–December 1974 or the period January–June 1975, whichever has the greatest error rate. For instance, dropping the error rate from 8 percent to 6 percent would mean a payment equal to one-half its October 1, 1977 payment.

Costs and savings

The costs of this provision for fiscal year 1978 is the $500 million set of payments made shortly after October 1, 1977 net of savings which would occur in fiscal year 1978 because states would strive to lower their error rates for the period January–June 1978. CBO assumes that the error rate nationwide will be 1.0 percentage points lower nationwide than it would have been without the incentive. The induced savings are estimated to be $46 million. However, there will be additional administrative costs as an offset necessary to accomplish the savings because states will need to improve quality control in order to lower their error rates. CBO estimates the federal part of these increased expenditures to be $11 million. The overall net cost in fiscal year 1978 is thus estimated as $465 million (500−46+11).

Based on data from HEW, CBO estimates that 91 percent of the $500 million maximum (or $455 million) will actually be paid on October 1, 1978. In addition, CBO estimates that the error rate will again be 1 percentage point lower than it would have been without the incentive. The result is a projected savings of $64 million. The federal part of administrative expenditures necessary to accomplish this are estimated to be $8 million. The net cost for fiscal year 1979 will thus be an estimated $399 million (455−64+8).

CBO assumes that quality control induced by these provisions will also have a declining residual effect in the years beyond fiscal year 1979.

Fiscal year:	*Millions*
1978	$465
1979	399
1980	−32
1981	−16
1982	−8

TITLE V

Section 501.—Improved Administration establishment of quality control system for the aid to families with dependent children programs.

In an effort to establish tighter quality controls, this section makes it mandatory for States to collect statistical data on their dollar and case error rates every 6 months and to follow up with corrective actions to reduce the incidences of error. It also calls for Federal reviews and Federal technical support. As an incentive to states to reduce errors, a monetary reward system is established to encourage states to reduce

their calculated error rates below 4 percent level. The costs for this provision primarily result from the increases in the Federal share of state administrative costs due to the States' efforts to update their present data collection systems to comply with the new provisions. Much of this administrative cost is assumed to occur in the first 18 months. Since technical support is presently being given to States, little new Federal dollars are assumed to be spent for this purpose.

The savings will result from the incentive provision to reduce State payment error. At this time, very few States, and only two major AFDC states, are within a practical range of reducing their error rate below the 4-percent base level anytime in the near future. Coupled with the fact that the provision provides a relatively small monetary incentive to States, CBO estimates that no major cost savings will result from this provision.

Fiscal year:	Millions
1978	$0.7
1979	−0.2
1980	−0.7
1981	−0.7
1982	−0.8

Section 502.—Recipient identification card.

This estimate assumes there would be a cost savings as a result of issuing AFDC recipients ID cards based on a Department of HEW study. The study examined the cost savings of New York as a result of issuing cards. It indicated that the additional cost of issuing cards was offset by reductions in fraud and double benefit receipts as recipients were required to present the card in person to obtain the benefits.

Fiscal year:	Millions
1978	$−9
1979	−9
1980	−10
1981	−11
1982	−12

Sections 503 and 504.—Federal financial participation in the investigation and prosecution of fraud and payment of administrative costs to localities (regarding Federal payments for the investigation and prosecution of fraud.)

There is no data available regarding what proportion of State administrative expenses are used for antifraud related activities; and, therefore, a reliable estimate of the cost of this provision cannot be made. However, CBO feels the additional matching costs will not be substantial in either fiscal year 1978 or fiscal year 1979.

Section 505.—Determination of benefits in certain cases where child lives with relative not legally responsible for his support (add section 413 to title IV of the Social Security Act.)

This provision would permit States to make AFDC payments to households not only with regard to the number of AFDC recipients in the household, but also with regard to the total number of persons in the household. For instance, under existing legislation, a family of five with two AFDC recipients receives payments for a family of two. Under the proposed change, if the plan of the state in which the family lived called for it, they would receive payments which would be two-fifths of payments to a family of five. In most instances, this would

represent a savings to states which choose to make their payments this way because the pro rata share for the larger household size would be, in most cases, less than the full family share for the smaller household size. If all states adopted the pro rata method, it would effect about one-third of all AFDC households (about 3.7 million). The actual number affected would be somewhat less than this because some states do not plan to use this provision. CBO estimates that the savings under this provision would be $20.5 million in fiscal year 1978 and about double that amount in fiscal year 1979 when it is assumed more states would take advantage of the option over a larger portion of the year. Years after fiscal year 1979 would show increased savings as more states used the option, although the increases would be less dramatic. CBO estimates assume states representing about 25 percent of all recipients will opt for the plan in fiscal year 1978, states representing about 50 percent in fiscal year 1979, up to around 60 percent in fiscal year 1982.

Fiscal year:	*Millions*
1978	—$20.5
1979	—48.5
1980	—50.6
1981	—56.0
1982	—62.2

Section 506.—Safeguards restricting disclosure of certain information under aid to families with dependent children.

No significant increase in cost will result from this provision. The activities will be performed by the present staff.

Section 507.—Additional Federal funding under aid to families with dependent children programs for certain mechanized claims processing and information retrieval systems.

This amendment provides Federal matching funds for States choosing to install or update computer systems to handle claims processing and information retrieval for their AFDC programs. The estimated federal cost associated with this provision reflects the spending patterns that have occurred under a similar federally matched medicaid program. Since all states have computer facilities, the estimate only takes account of federal expenditures for updating and extending these facilities together with expenditures for the operation of the new parts of the system. The first year cost would be relatively low due to time lags involved in writing regulations and approving state plans. Fiscal years 1979 and 1980 would be high cost years for this provision as states purchased and installed their new computer systems, and cost savings would occur in fiscal year 1981 and fiscal year 1982 as the result of staff time reductions and more efficient services.

Fiscal year:	*Millions*
1978	$6.7
1979	49.1
1980	31.5
1981	—6.2
1982	—6.2

Section 508.—Access to wage information.

This provision would make available to states wage information contained in the records of the Social Security Administration and unemployment compensation agencies. Though there would be both costs and potential savings, the magnitude of neither is known.

Costs would be incurred for the administrative expense of processing the records. Savings would be incurred if matching the records uncovered illegitimate payments. Savings are particularly illusive because the information from SSA records could be as old as eighteen months so that the data may not be timely enough to be useful to the states.

Section 509.—Child support collection and paternity determination services.

This provision would continue Federal matching for child support enforcement services to non-welfare recipients after fiscal year 1978. CBO accepts the administration's cost estimate for this provision.

Fiscal year:	*Millions*
1978	0
1979	$40
1980	43
1981	45
1982	47

Section 510 and 511.—Method of payment for child support collection services and treatment of certain child support collections after termination of aid to families with dependent children assistance.

This provision would allow States to keep (with appropriate reimbursement to the Federal Government) the amount of child support payments collected by states, on behalf of families no longer on AFDC, that are in excess of monthly child support payments to be paid to these families. In this way these families would be able to partially repay the states for previous AFDC payments they had collected. The projected saving (shown below) is the estimate made by the Department of HEW.

Fiscal year:	*Millions*
1978	−$2.0
1979	−2.0
1980	−2.5
1981	−2.5
1982	−2.5

Section 512.—Payment to States for compensation of court personnel in child support cases.

This provision would grant compensation to States for judges and other court personnel who perform services directly related to child support enforcement. The estimates for the five fiscal years come from the Department of HEW and reflects in both their estimate of the impact this matching grant would have on the amount of time judges spent in the states to hear child support cases and the savings associated with increased child support collections. It was assumed the number of judges working in this area would increase by 300 and that there will be an annual savings of $4 to $5 million.

Fiscal year:	*Millions*
1978	$7.5
1979	11.0
1980	11.8
1981	12.7
1982	13.5

Section 513.—Federal financial participation in certain restricted payments under aid to families with dependent children program.

Because payments to AFDC recipients will be made no matter what there form, this provision should result in little or no cost. Any additional costs would be administrative. For fiscal year 1978, this is estimated to be about $5 million.

Fiscal year:	*Millions*
1978	$5.0
1979	5.2
1980	5.5
1981	5.8
1982	6.1

Section 520.—Implementation of work and training requirements under aid to families with dependent children programs.

Currently, all AFDC recipients (except those specifically exempted, e.g. children, those already working full-time, mothers with children under six, those who are sick, etc.) are required to register for WIN.

This provision would essentially extend the WIN requirement of AFDC eligibility to include a continuing job search for those not specifically exempted. In addition, in order to facilitate the new job search requirement, this amendment would require the states to provide support services such as child care and transportation under a program of federal matching payments. Current estimates of the number of persons affected by this provision range from 600,000 to 1 million. For estimating purposes, CBO uses the figure 800,000.

This provision would have both costs and savings:

Costs.—It is estimated that for a full year the average cost per person of this provision would include $95 in support staff and $60 in transportation for a total of $155. The cost for 800,000 people is thus estimated to be $124 million.

Savings.—Savings due to this provision would occur if people are placed in jobs through the WIN program and as a result have lower AFDC payments. The problem is that WIN programs do not appear to affect employment greatly.

Although about one-third of those receiving WIN services do find employment, this apparent success cannot necessarily be attributed to WIN. That is, those who do improve their employment situation seem to be those who would do so on their own in the absence of WIN. Studies that have matched WIN participants with control groups not receiving WIN services find either no effect or only a small net effect from the WIN program. (And even in studies which show a small effect due to the WIN program, the subsequent reduction in AFDC costs was not sufficient to offset the cost of WIN.) [1] Moreover, this new provision extends WIN to those AFDC recipients who did not in the past volunteer for WIN services. This group tends to be those who had been on AFDC longer and includes those who are the hardest to place in jobs. Taken together, this evidence indicates only a small positive impact on employment due to this additional WIN provision.

The following table shows the percentage of AFDC mothers who were employed over a 14-year span both before and during the time when the initial WIN program became effective in 1967.

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[1] See George E. Johnson and Gary B. Reed, "Further Evidence on the Impact of the WIN II Program". Technical Analysis Paper No. 15–A, Office of Evaluation, Office of the Assistant Secretary for Policy, Evaluation and Research, Department of Labor, January 1975; Pacific Consultants (together with Camil Associates and Ketron Inc.) "The Impact of WIN II" A Longitudinal Evaluation of the Work Incentive Program. Prepared for Office of Policy, Evaluation and Research Employment and Training Administration, U.S. Department of Labor, Report MEL 76–06, Contract No. 53–4–013–06, September 1976.

Percentages of AFDC mothers employed in selected years (status in January of the given year)

1961	15.7
1967	14.5
1969	14.7
1971	15.0
1973	16.2
1975	16.0

Source: Economic Report of the President, January 1975. January 1975 represents an update from SRS of HEW.

The small 67–75 rise in the percentage employed among AFDC mothers came at a time when employment opportunities were generally rising for women with children, which means that even this gain cannot be entirely attributed to WIN. From 1967 to 1975 the percentage of ever married women with children under six who were employed rose from about 27 percent to 33 percent and the percentage employed among those whose children were between 6 and 17 exclusively, rose from about 47 percent to 51 percent.[2]

CBO estimates that out of the 3.6 million AFDC heads of families, the percentage who work under the new WIN proposal would rise 0.6 percentage points (or 21,600) under this provision. This projected increase assumes a replication of one-half the 1971 to 1973 increase in the percentage employed as shown in the table above. Half of the increase is assumed to be the result of improved employment conditions particularly for women and half is assumed to be the result of the initiation of WIN II in 1971; it is assumed the current proposal would replicate the latter experience. The estimated differential in the AFDC payments (federal share) between those who work and those who don't work is about $850 per year (with the higher payment going to those who don't work). Thus the potential yearly savings due to more people working while on AFDC would be $18.4 million (21,600×$850).

Savings could also occur if, because of the new WIN provision, people left the AFDC rolls. Based on past WIN experience, CBO estimates that at most 1.5 percent of the 800,000 WIN participants (or 12,000) would leave the rolls because of the new provision. With an average saving of $1,600 per year, people leaving the rolls would result in an estimated total yearly saving of $19.2 million. Additional savings would result if people were deterred from going on AFDC as a result of the additional WIN procedures they would face after going on AFDC. CBO assumes this savings would be $10 million for a full year. There would be two other minor areas of net savings due to this provision: 1) eliminate the requirement that a 60-day counseling period transpire before assistance can be terminated for not participating in WIN without good cause—saving $3.2 million per year, 2) eliminate WIN registration requirement for those working more than a 30-hour workweek—saving $0.7 million per year.

The current net cost for a full year would be an estimated $72.5 million (124–18.4–19.2–10–3.2–.7). The effective period for fiscal year

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[2] Source. Estimated from data from the Bureau of Labor Statistics, Department of Labor.

1978 is assumed to be half a year, which means that the effective cost for fiscal year 1978 would be simply half of the above net cost.

Fiscal year:	*Millions*
1978	$36.3
1979	76.8
1980	81.4
1981	86.2
1982	91.4

Section 521.—Incentive to report earned income by aid to families with dependent children recipients.

This provision stipulates that unless all earned income is reported accurately and in a timely manner, the AFDC recipient will not be eligible for the income disregard. The estimated cost savings for this provision is based on the Department of HEW's actual reported error cost in 1976 of $97.5 million resulting from AFDC overpayments due to income date reporting. The Department indicated that over 20 percent of this could be traced to the unreporting of income. In estimating this cost savings, it was assumed a small portion of the error would not be caught.

Fiscal year:	*Millions*
1978	−$23
1979	−24
1980	−26
1981	−28
1982	−30

Section 522.—State demonstration projects.

This provision would allow States to use what would have been their Federal share of AFDC payments to help pay AFDC recipients who work in public service demonstration projects (on a voluntary basis) instead of collecting AFDC. Additional costs for salaries over and above the AFDC amount would be covered by State revenue sharing funds. It is the legislative intent that no additional State administrative costs will be incurred. Therefore, it is assumed that there will be no significant increase in Federal costs as a result of this provision.

Section 523.—Community work and training programs.

This provision would allow States to adopt work and training programs under which States could compel AFDC recipients, as a requirement for further payment, to participate (unless specifically exempted, e.g. children, mothers with children under 6, the sick, those already working, etc.). These programs would be similar to the pilot program conducted in the State of Utah. Costs associated with these programs would include the costs of additional administration. Savings would occur if welfare recipients got jobs and left AFDC or if community work and training programs deterred people from going on AFDC. These savings would be minimal, however, if the programs are targeted to particular AFDC recipients like those who have been in WIN for a long period of time and/or those who have never worked.

The cost estimate assumes a small number of States would opt to participate in this program.

Fiscal year:	*Millions*
1978	—$0.6
1979	—1.9
1980	—2.5
1981	—4.5
1982	—4.6

Section 524.—Earned income disregard.

This provision would do four things to the formula for calculating the amount of income subtracted from the monthly AFDC payment: 1) It would change the way child care expenses are handled. Currently all child care expenses are disregarded in calculating the AFDC benefit. Under this provision income used to calculate the disregard would be reckoned net of child care expenses; 2) It would raise the standard income disregard from $30 to $60 per month for full-time workers (part-time workers would remain at $30); The formula for the disregarded proportion of income (net of child care expenses) over $60 ($30 for part-time workers) would be calculated as one-third of net income between $60 and $360 per month and one-fifth of net income over $360 per month; and 4) It would eliminate work expenses as a disregard.

Changes 1 and 3 would have the effect of lowering the proportion of child care expenses which would be disregarded from the full amount to about two-thirds of these expenses.

The overall effect of this provision would be to sharply reduce the share of income working AFDC recipients could keep—from an estimated 71 percent to 53 percent. This effect occurs primarily because of the elimination of the work expense disregard. CBO estimates that the lowered incentive for persons to work and collect AFDC payments at the same time would result in as many as 100,000 fewer people who work while on AFDC out of approximately 500,000 who currently work while collecting AFDC. This change in the composition of workers on AFDC would be the result of three things: 1) Some would drop off AFDC because their income would be too high for them to qualify for AFDC payments under the new provision; 2) Some would curtail working or quit work entirely because working would no longer pay enough to be financially advantageous; and 3) Some would not go on AFDC because the AFDC-work combination would become less attractive. There are thus mixed effects on AFDC costs resulting from this provision.

Eliminating the work expense disregard and lowering the proportion of child care costs disregarded would result in lower AFDC costs. However, raising the standard disregard and the fact that some people will choose to work less and collect more AFDC would partially offset the cost saving. The indirect effect of less people on AFDC would, of course, result in some additional savings. CBO estimates that should this provision be adopted, it would result in a net savings of $175 million in fiscal year 1978.

Fiscal year:	*Millions*
1978	—$175
1979	—230
1980	—241
1981	—261
1982	—276

TITLE VI

Section 601.—Compilation of fraud data by Inspector General.

No significant increase in cost will result from this provision. The activities will be performed by the present staff.

Section 602.—Aliens receiving public assistance.

This provision establishes that the receipt of SSI or AFDC benefits by an individual will constitute such individual's being a "public charge" and, therefore, liable for deportation. It is assumed that those aliens presently receiving SSI or AFDC will drop their benefits rather than risk deportation or would leave the country.

Fiscal year:	*Millions*
1978	−$21.3
1979	−45.9
1980	−48.3
1981	−52.7
1982	−55.7

TITLE VII

Section 702.—Increase in amount of dollar limitations (Federal financial participation in public assistance).

Section 703.—Northern Mariana Islands (programs in Puerto Rico, the Virgin Islands, Guam, and the Northern Mariana Islands.)

The cost estimate for these sections reflects the $52.4 million increase in Federal dollar limitations available for assistance to the aged, blind, and disabled and to families with dependent children in Puerto Rico, Guam, and Virgin Islands, and the Northern Mariana Islands as well as the reduction in the required State matching level from 50 percent to 25 percent of the Federal funds.

It is assumed that Puerto Rico, Guam and the Virgin Islands will meet their 25 percent matching requirement for the maximum amount since the dollar amounts are the same as those they are presently contributing under the 50 percent match. It is further assumed the Northern Mariana's constitution will be ratified prior to fiscal year 1979 and they will be able to match the Federal limitation fully by that fiscal year.

The fiscal year 1978 costs reflect the effective date of April 1, 1978.

Fiscal year:	*Millions*
1978	$25.9
1979	52.4
1980	52.4
1981	52.4
1982	52.4

7. Estimate comparison: None.

8. Previous CBO estimate: None.

9. Estimate prepared by: Al Peden, Kathleen Shepherd, Debb Kalcevic, Lucia Becerra.

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

96-682 O—77——10

VI. Changes in Existing Law

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italic, existing law in which no change is proposed is shown in roman):

Social Security Act, as Amended

TITLE I—GRANTS TO STATES FOR OLD-AGE ASSISTANCE AND MEDICAL ASSISTANCE FOR THE AGED

* * * * * * *

Payment to States

Sec. 3. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1960—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{3}1/_{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of old-age assistance for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received old-age assistance in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as old-age assistance in the form of medical or any other type of remedial care); plus

(B) the larger of the following:

(i)(I) the Federal percentage (as defined in section 1101(a)(8) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of old-age assistance for such month, plus (II) 15 per centum of the total expended during such month as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the total number of recipients of old-age assistance for such month, or

(ii)(I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditures with respect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of old-age assistance for such month, or (b) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients, plus (II) the Federal percentage of the amount by which the total expended during such month as old-age assistance under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of old-age assistance for such month;

(2) in the case of Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as old-age assistance under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of old-age assistance for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of old-age assistance for such month, or (II) if smaller, the total expended as old-age assistance in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as old-age assistance under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of old-age assistance for such month;

(3) in the case of any State, an amount equal to the Federal medical percentage (as defined in section 6(c)) of the total amounts expended during such quarter as medical assistance for the aged under the State plan (including expenditures for insurance premiums for medical or any other type of remedial care or the cost thereof); and

(4) in the case of any State whose State plan approved under section 2 meets the requirements of subsection (c)(1), an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to the applicants for or recipients of assistance under the plan to help them attain or retain capability for self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of assistance under the plan, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or recipients of assistance under the plan, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such assistance; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraphs (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act, are able and willing to provide if reimbursed for the cost thereof pur-

suant to agreement under subparagraph (E), if provided by such staff, and

(E) under conditions which shall be prescribed by the Secretary, services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (i) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraph (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(5) in the case of any State whose State plan approved under section 2 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (4) and provided in accordance with the provisions of such paragraph.

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TITLE II—FEDERAL OLD-AGE, SURVIVORS, AND DISABILITY INSURANCE BENEFITS

* * * * * * *

Overpayments and Underpayments

Sec. 204. (a) * * *

(e) *For payments which are considered to have been paid as an advance under the supplemental security income program established by title XVI, see section 1132.*

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TITLE IV—GRANTS TO STATES FOR AID AND SERVICES TO NEEDY FAMILIES WITH CHILDREN AND FOR CHILD-WELFARE SERVICES

Part A—Aid to Families With Dependent Children

Appropriation

Section 401. For the purpose of encouraging the care of dependent children in their own homes or in the homes of relatives by enabling

each State to furnish financial assistance and rehabilitation and other services, as far as practicable under the conditions in such State, to needy dependent children and the parents or relatives with whom they are living to help maintain and strengthen family life and to help such parents or relatives to attain or retain capability for the maximum self-support and personal independence consistent with the maintenance of continuing parental care and protection, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part. The sums made available under this section shall be used for making payments to States which have submitted, and had approved by the Secretary of Health, Education. and Welfare, State plans for aid and services to needy families with children.

State Plans for Aid and Services to Needy Families With Children

Sec. 402. (a) A State plan for aid and services to needy families with children must—

(1) provide that it shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(2) provide for financial participation by the State;

(3) either provide for the establishment or designation of a single State agency to administer the plan, or provide for the establishment or designation of a single State agency to supervise the administration of the plan;

(4) provide for granting an opportunity for a fair hearing before the State agency to any individual whose claim for aid to families with dependent children is denied or is not acted upon with reasonable promptness;

(5) provide such methods of administration (including after January 1, 1940, methods relating to the establishment and maintance of personnel standards on a merit basis, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, and compensation of any individual employed in accordance with such methods) as are found by the Secretary to be necessary for the proper and efficient operation of the plan; and

(6) provide that the State agency will make such reports, in such form and containing such information, as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(7) except as may be otherwise provided in clause (8), provide that the State agency shall, in determining need, take into consideration any other income and resources of any child or relative claiming aid to families with dependent children, or of any other individual (living in the same home as such child and relative) whose needs the State determines should be considered in determining the need of the child or relative claiming such aid, as well as any *child care* expenses reasonably attributable to the earning of any such income;

(8) provide that, in making the determination under clause (7), the State agency—

(A) shall with respect to any month disregard—

(i) all of the earned income of each dependent child receiving aid to families with dependent children who is (as determined by the State in accordance with standards prescribed by the Secretary) a full-time student or part-time student who is not a full-time employee attending a school, college, or university, or a course of vocational or technical training designed to fit him for gainful employment, and

(ii) in the case of earned income of a dependent child not included under clause (i), a relative receiving such aid, and any other individual (living in the same home as such relative and child) whose needs are taken into account in making such determination, [the first $30 of the total of such earned income for such month plus one-third of the remainder of such income for such month] *(I) the first $60 of earned income for individuals who are employed at least forty hours per week, or at least thirty-five hours per week and are earning at least $92 per week, and (II) the first $30 of earned income for individuals not meeting the criteria of subclause (I), plus (III) in each case, one-third of up to $300 of additional earnings, and one-fifth of such additional earnings in excess of $300, except that in each case an amount equal to the reasonable child care expenses incurred (subject to such limitations as the Secretary may prescribe in regulations) shall first be deducted before computing such individual's earned income* (except that the provisions of this clause (ii) shall not apply to earned income derived from participation on a project maintained under the programs established by section 432(b)(2) and (3)); and

(B) (i) may, subject to the limitations prescribed by the Secretary, permit all or any portion of the earned or other income to be set aside for future identifiable needs of a dependent child, and (ii) may, before disregarding the amounts referred to in subparagraph (A) and clause (i) of this subparagraph, disregard not more than $5 per month of any income;

except that, with respect to any month, the State agency shall not disregard any earned income (other than income referred to in subparagraph (B)) of—

(C) any one of the persons specified in clause (ii) of subparagraph (A) if such person—

(i) terminated his employment or reduced his earned income without good cause within such period (of not less than 30 days) preceding such month as may be prescribed by the Secretary; or

(ii) refused without good cause, within such period preceding such month as may be prescribed by the Secretary, to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined by the State or local agency administering the State plan, after notification by him, to be a bona fide offer of employment; or

(D) any of such persons specified in clause (ii) of subparagraph (A) if with respect to such month the income of the persons so specified (within the meaning of clause (7)) was in excess of their need as determined by the State agency pursuant to clause (7) (without regard to clause (8)), unless, for any one of the four months preceding such month, the needs of such person were met by the furnishing of aid under the plan; [and] *or*

(E) any of the persons specified in clause (i) or (ii) of subparagraph (A) if there is a failure without good cause to make a timely report (as prescribed by the State plan) to the State agency of earned income received in such month;

(9) provide safeguards which restrict the use of disclosure of information concerning applicants or recipients to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part B, C, or D of this title or under title I, X, XIV, XVI, XIX, or XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, [and] (C) the administration of any other Federal or federally assigned program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, *and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agency which is authorized by law to conduct such audit or activity*; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (*other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any agency referred to in clause (D) with respect to an activity referred to in such clause*), of any information which identifies by name or address any such applicant or recipient;

(10) provide, effective July 1, 1951, that all individuals wishing to make application for aid to families with dependent children shall have opportunity to do so, and that aid to families with dependent children shall, subject to paragraphs (25) and (26), be furnished with reasonable promptness to all eligible individuals;

(11) provide for prompt notice (including the transmittal of all relevant information) to the State child support collection agency (established pursuant to part D of this title) of the furnishing of aid to families with dependent children with respect to a child who has been deserted or abandoned by a parent (including a child born out of wedlock without regard to whether the paternity of such child has been established);

(12) provide, effective October 1, 1950, that no aid will be furnished any individual under the plan with respect to any period with respect to which he is receiving old-age assistance under the State plan approved under section 2 of this Act;

(13) [Repealed].

(14) [Repealed].

(15) provide as part of the program of the State for the provision of services under title XX (A) for the development of a program, for each appropriate relative and dependent child receiving aid under the plan and for each appropriate individual (living in the same home as a

relative and child receiving such aid) whose needs are taken into account in making the determination under clause (7), for preventing or reducing the incidence of births out of wedlock and otherwise strengthening family life, and for implementing such program by assuring that in all appropriate cases (including minors who can be considered to be sexually active) family planning services are offered to them and are provided promptly (directly or under arrangements with others) to all individuals voluntarily requesting such services, but acceptance of family planning services provided under the plan shall be voluntary on the part of such members and individuals and shall not be a prerequisite to eligibility for or the receipt of any other service under the plan; and (B) to the extent that services provided under this clause or clause (14) are furnished by the staff of the State agency or the local agency administering the State plan in each of the political subdivisions of the State, for the establishment of a single organizational unit in such State or local agency, as the case may be, responsible for the furnishing of such services;

(16) provide that where the State agency has reason to believe that the home in which a relative and child receiving aid reside is unsuitable for the child because of the neglect, abuse, or exploitation of such child it shall bring such condition to the attention of the appropriate court or law enforcement agencies in the State, providing such data with respect to the situation it may have;

(17) [Repealed].

(18) [Repealed].

(19) provide—

(A) that every individual, as a condition of eligibility for aid under this part, shall register for manpower services, training, [and employment as provided by regulations of the Secretary of Labor, unless such individual is—] *employment, and other employment related activities with the Secretary of Labor as provided by regulations issued by him, unless such individual is—*

(i) a child who is under age 16 or attending school full time;

(ii) a person who is ill, incapacitated, or of advanced age;

(iii) a person so remote from a work incentive project that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child; [or]

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not excluded by clause (i), (ii), (iii), or (iv) of this subparagraph (unless he has failed to register as required by this subparagraph, or has been found by the Secretary of Labor [under section 433(g)] to have refused without good cause to participate under a work incentive program or accept employment as described in subparagraph (F) of this paragraph); *or*

(vii) a person who is working not less than 30 hours per week;

and that any individual referred to in clause (v) shall be advised of her option to register, if she so desires, pursuant to this paragraph, and shall be informed of the child care services (if any) which will be available to her in the event she should decide so to register;

(B) that aid *to families with dependent children* under the plan will not be denied by reason of such registration or the individual's certification to the Secretary of Labor under subparagraph (G) of this paragraph, or by reason of an individual's participation on a project under the program established by section 432(b) (2) or (3);

(C) for arrangements to assure that there will be made a non-Federal contribution to the work incentive programs established by part C by appropriate agencies of the State or private organizations of 10 per centum of the cost of such programs, as specified in section 435(b);

(D) that (i) training incentives authorized under section 434[, and income derived from a special work project under the program established by section 432(b)(3)] shall be disregarded in determining the needs of an individual under section 402(a)(7), and (ii) in determining such individual's needs the additional expenses attributable to his participation in a program established by section 432(b) (2) or (3) shall be taken into account;

(E) [Repealed].

(F) that if [and for so long as any child, relative, or individual (certified to the Secretary of Labor pursuant to subparagraph (G))] (*and for such period as is prescribed under joint regulations of the Secretary and the Secretary of Labor*) *any child, relative or individual* has been found by the Secretary of Labor under section 433(g) to have refused without good cause to participate under a work incentive program established by part C with respect to which the Secretary of Labor has determined his participation is consistent with the purposes of such part C, or to have refused without good cause to accept employment in which he is able to engage which is offered through the public employment offices of the State, or is otherwise offered by an employer if the offer of such employer is determined, after notification by him, to be a bona fide offer of employment—

(i) if the relative makes such refusal, such relative's needs shall not be taken into account in making the determination under clause (7), and aid for any dependent child in the family in the form of payments of the type described in section 406(b)(2) (which in such a case shall be without regard to clauses (A) through (E) thereof) or section 408 will be made;

(ii) aid with respect to a dependent child will be denied if a child who is the only child receiving aid in the family makes such refusal;

(iii) if there is more than one child receiving aid in the family, aid for any such child will be denied (and his needs will not be taken into account in making the determination under clause (7)) if that child makes such refusal; and

(iv) if such individual makes such refusal, such individual's needs shall not be taken into account in making the determination under clause (7); *and*

[except that the State agency shall for a period of sixty days, make payments of the type described in section 406(b)(2) (without regard to clauses (A) through (E) thereof on behalf of the relative specified in clause (i), or continue aid in the case of a child specified in clause (ii) or (iii), or take the individual's needs into account in the case of an individual specified in clause (iv), but only if during such period such child, relative, or individual accepts counseling or other services (which the State agency shall make available to such child, relative, or individual) aimed at persuading such relative, child, or individual, as the case may be to participate in such program in accordance with the determination of the Secretary of Labor; and]

(G) that the State agency will have in effect a special program which (i) will be administered by a separate administrative unit (*which will, to the maximum extent feasible, be located in the same facility as that utilized for the administration of programs established pursuant to section 432(b) (1), (2), or (3)*) and the employees of which will, to the maximum extent feasible, perform services only in connection with the administration of such program, (ii) will provide (through arrangements with others or otherwise) for individuals who have been registered pursuant to [subparagraph (A),] *subparagraph (A) of this paragraph, (I)* in accordance with the order of priority listed in section 433(a), such health, vocational rehabilitation, counseling, child care, and other social and supportive services as are necessary to enable such individuals to accept employment or receive manpower training provided under [part C,] *section 432(b) (1), (2), or (3)* and will, when arrangements have been made to provide necessary supportive services, including child care, certify to the Secretary of Labor those individuals who are ready for employment or training under [part C,] *section 432(b) (1), (2), or (3), (II) such social and supportive services as are necessary to enable such individuals as determined appropriate by the Secretary of Labor actively to engage in other employment related (including but not limited to employment search) activities, and (III) for a period deemed appropriate by the Secretary of Labor after such an individual accepts employment, such social and supportive services as are reasonable and necessary to enable him to retain such employment*, (iii) will participate in the development of operational and employability plans under section 433 (b); and (iv) provides for purposes of clause (ii), that, when more than one kind of child care is available, the mother may choose the type, but she may not refuse to accept child care services if they are available;

(20) effective July 1, 1969, provide for aid to families with dependent children in the form of foster care in accordance with section 408;

(21) [Repealed].

(22) [Repealed].

(23) provide that by July 1, 1969, the amounts used by the State to determine the needs of individuals will have been adjusted to reflect fully changes in living costs since such amounts were established, and any maximums that the State imposes on the amount of aid paid to families will have been proportionately adjusted;

(24) provide that if an individual is receiving benefits under title XVI, then, for the period for which such benefits are received, such individual shall not be regarded as a member of a family for purposes of determining the amount of the benefits of the family under this title and his income and resources shall not be counted as income and resources of a family under this title;

(25) provide (A) that, as a condition of eligibility under the plan, each applicant for or recipient of aid shall furnish to the State agency his social security account number (or numbers, if he has more than one such number), and (B) that such State agency shall utilize such account numbers, in addition to any other means of identification it may determine to employ in the administration of such plan;

(26) provide that, as a condition of eligibility for aid, each applicant or recipient wil be required—

(A) to assign the State any rights to support from any other person such applicant may have (i) in his own behalf or in behalf of any other family member for whom the applicant is applying for or receiving aid, and (ii) which have accrued at the time such assignment is executed,

(B) to cooperate with the State (i) in establishing the paternity of a child born out of wedlock with respect to whom aid is claimed, and (ii) in obtaining support payments for such applicant and for a child with respect to whom such aid is claimed, or in obtaining any other payments or property due such applicant or such child, unless (in either case) such applicant or recipient is found to have good cause for refusing to cooperate as determined by the State agency in accordance with standards prescribed by the Secretary, which standards shall take into consideration the best interests of the child on whose behalf aid is claimed; and that, if the relative with whom a child is living is found to be ineligible because of failure to comply with the requirements of subparagraphs (A) and (B) of this paragraph, any aid for which such child is eligible will be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section);

(27) provide, that the State has in effect a plan approved under part D and operate a child support program in conformity with such plan; [and]

(28) provide that, in determining the amount of aid to which an eligible family is entitled, any portion of the amounts collected in any particular month as child support pursuant to a plan approved under part D, and retained by the State under section 457, which (under the State plan approved under this part as in effect both during July 1975 and during that particular month) would not have caused a reduction in the amount of aid paid to the family if such amounts had been paid directly to the family, shall be added to the amount of aid otherwise payable to such family under the State plan approved under this part[.];

(29) provide that, not later than January 1, 1978, the State shall establish and put in operation a quality control system which is approved by the Secretary as a plan which meets the standards and conditions prescribed under section 411 and which conforms to any regulations of the Secretary prescribed thereunder;

(30) At the option of the State, provide, effective January 1, 1978 (or at the beginning of such subsequent calendar quarter as the State shall elect), for the establishment and operation, in accordance with an (initial and annually updated) advance automatic data processing planning document approved under subsection (d), of an automated statewide management information system designed effectively and efficiently, to assist management in the administration of the State plan for aid to families with dependent children approved under this part, so as (A) to control and account for (i) all the factors in the total eligibility determination process under such plan for aid (including, but not limited to, (I) identifiable correlation factors (such as social security numbers, names, dates of birth, and home addresses of all applicants and recipients of such aid and the relative with whom any child who is such applicant or recipient is living) to assure sufficient compatibility among the systems of different jurisdictions to permit periodic screening to determine whether an individual is or has been receiving benefits from more than one jurisdiction, (II) checking records of applicants and recipients of such aid on a periodic basis with other agencies, both intra- and inter-State, for determination and verification of eligibility pursuant to requirements imposed by other provisions of this Act), (ii) the costs, quality, and delivery, of funds and services furnished to applicants for and recipients of such aid, (B) to notify the appropriate officials of child support, food stamp, and medical assistance programs approved under title XIX whenever the case becomes ineligible or the amount of aid or services is changed, and (C) to provide for security against unauthorized access to, or use of, the data in such system; and

(31) effective October 1, 1979, provide that wage information available from the Social Security Administration under the provisions of section 415 of this Act, and available (under the provisions of section 3304(a)(16) of the Federal Unemployment Tax Act), from agencies administering State unemployment compensation laws shall be requested and utilized to the extent permitted under the provisions of such sections; except that the State shall not be required to request such information from the Social Security Administration where such information is available from the agency administering the State unemployment compensation laws.

(b) The Secretary shall approve any plan which fulfills the conditions specified in subsection (a), except that he shall not approve any plan which imposes as a condition of eligibility for aid to families with dependent children a residence requirement which denies aid with respect to any child residing in the State (1) who has resided in the State for one year immediately preceding the application for such aid, or (2) who was born within one year immediately preceding the application, if the parent or other relative with whom the child is living has resided in the State for one year immediately preceding the birth.

(c) The Secretary shall, on the basis of his review of the reports received from the States under clause (15) of subsection (a), compile such data as he believes necessary and from time to time publish his findings as to the effectiveness of the programs developed and administered by the States under such clause. The Secretary shall annually report to the Congress (with the first such report being made on or before July 1, 1970) on the programs developed and administered by each State under such clause (15).

(d) (1) The Secretary shall not approve the initial and annually updated advance automatic data processing planning document, referred to in subsection (a) (30), unless he finds that such document, when implemented, will generally carry out the objectives of the statewide management system referred to in such subsection, and such document—

(A) provides for the conduct of, and reflects the results of, requirements analysis studies, which include consideration of the program mission, functions, organization, services, constraints, and current support, of, in, or relating to, such system,

(B) contains a description of the proposed statewide management system referred to in subsection (a), including a description of information flows, input data, and output reports and uses,

(C) sets forth the security and interface requirements to be employed in such statewide management system,

(D) describes the projected resource requirements for staff and other needs, and the resources available or expected to be available to meet such requirements,

(E) includes cost-benefit analyses of each alternative management system, data processing services and equipment, and a cost allocation plan containing the basis for rates, both direct and indirect, to be in effect under such statewide management system,

(F) contains an implementation plan with charts of development events, testing descriptions, proposed acceptance criteria, and backup and fallback procedures to handle possible failure of contingencies, and

(G) contains a summary of proposed improvement of such statewide management system in terms of qualitative and quantitative benefits.

(2) (A) The Secretary shall, on a continuing basis, review, assess, and inspect the planning, design, and operation of, statewide management information systems referred to in section 403(a) (3) (D), with a view to determining whether, and to what extent, such systems meet and continue to meet requirements imposed under such section and the conditions specified under subsection (a) (30) of this section.

(B) If the Secretary finds with respect to any statewide management information system referred to in section 403(a) (3) (D) that there is a failure substantially to comply with criteria, requirements, and other undertakings, prescribed by the advance automatic data processing planning document theretofore approved by the Secretary with respect to such system, then the Secretary shall suspend his approval of such document until there is no longer any such failure of such system to comply with such criteria, requirements, and other undertakings so prescribed.

Payment to States

Sec. 403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid and services to needy families with children, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) five-sixths of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $18 multiplied by the total number of recipients of aid to families with dependent children for such month (which total number, for purposes of this subsection, means (i) the number of individuals with respect to whom such aid in the form of money payments is paid for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to families with dependent children in the form of medical or any other type of remedial care, plus (iii) the number of individuals, not counted under clause (i) or (ii), with respect to whom payments described in section 406(b)(2) are made in such month and included as expenditures for purposes of this paragraph or paragraph (2)); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (i) the product of $32 multiplied by the total number of recipients of aid to families with dependent children (other than such aid in the form of foster care) for such month, plus (ii) the product of $100 multiplied by the total number of recipients of aid to families with dependent children in the form of foster care for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during such quarter as aid to families with dependent children under the State plan (including expenditures for premiums under part B of Title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof) not counting so much of any expenditure with respect to any month as exceeds $18 multiplied by the total number of recipients of such aid for such month; and

(3) in the case of any State, an amount equal to the sum of the following proportions of the total amounts expended during such

quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, [and]

(B) 75 per centum of so much of such expenditures as are for the costs of issuing recipient identification cards authorized under section 442.

(C) 75 per centum of so much of such expenditures as are for the costs incurred by separate identifiable welfare fraud units in the investigation and prosecution of cases of fraud involving payments made by States under this title.

(D) 90 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins January 1, 1978) as are attributable to the planning, design, development, or installation of such statewide mechanized claims processing and information retrieval systems as (i) meet the conditions of section 402(a)(30), and (ii) the Secretary determines are likely to provide more efficient, economical, and effective administration of the plan and to be compatible with the claims processing and information retrieval systems utilized in the administration of State plans approved under title XIX, and State programs with respect to which there is Federal financial participation under title XX.

(E) 75 per centum of so much of the sums expended during such quarter (commencing with the quarter which begins January 1, 1978) as are attributable to the operation of systems (whether such systems are operated directly by the State or by another person under contract with the State) of the type described in subparagraph (D) (whether or not designed, developed, or installed with assistance under such subparagraph) and which meet the conditions of section 402(a)(30), and

[(B)](*F*) one-half of the remainder of such expenditures, except that no payment shall be made with respect to amounts expended in connection with the provision of any service described in section 2002(a)(1) of this Act other than services the provision of which is required by section 402(a)(19) to be included in the plan of the State, *and no payment shall be made under subparagraph (B) or (C) unless the State agrees to pay to any political subdivision thereof, an amount equal to 75 percent of so much of the administrative expenditures described in such subparagraph as were made by such political subdivision*; and

(4) [Repealed].

(5) in the case of any State, an amount equal to 50 per centum of the total amount expended under the State plan during such quarter as emergency assistance to needy families with children.

The number of individuals with respect to whom payments described in section 406(b)(2) are made for any month, who may be included as recipients of aid to families with dependent children for purposes of paragraph (1) or (2), may not exceed [10] *20* per centum of the number of other recipients of aid to families with dependent children for such month. In computing such [10] *20* percent, there shall not be taken into account individuals with respect to whom such payments are made for any month in accordance with section 402(a)(19)(F), [or] section 402(a)(26), *or section 409(c), or any individual with respect to whom payments of the type involved are made (without regard to clause (2) of section 406(b) or the second sentence of such section) upon request as provided in the last paragraph of such section.*

In the case of calendar quarters beginning after September 30, 1977 and prior to October 1, 1978, the amount to be paid to each State (as determined under the preceding provisions of this subsection or section 1118, as the case may be) shall be increased in accordance with the provisions of subsection (i) of this section.

(b) The method of computing and paying such amounts shall be as follows:

(1) The Secretary of Health, Education, and Welfare shall, prior to the beginning of each quarter, estimate the amount to be paid to the State for such quarter under the provisions of subsection (a), such estimate to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarters, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, (B) records showing the number of dependent children in the State, and (C) such other investigation as the Secretary may find necessary.

(2) The Secretary of Health, Education, and Welfare shall then certify to the Secretary of the Treasury the amount so estimated by the Secretary of Health, Education, and Welfare, (A) reduced or increased, as the case may be, by any sum by which the Secretary of Health, Education, and Welfare finds that his estimate for any prior quarter was greater or less than the amount which should have been paid to the State for such quarter, [and] (B) reduced by a sum equivalent to the pro rata share to which the United States is equitably entitled, as determined by the Secretary of Health, Education, and Welfare, of the net amount recovered during any prior quarter by the State or any political subdivision thereof with respect to aid to families with dependent children furnished under the State plan, *and (C) reduced by such amount as is necessary to provide the "appropriate reimbursement of the Federal Government" that the State is required to make under section 457 out of that portion of child support collections retained by it pursuant to such section*; except that such increases or reductions shall not be made to the extent that

such sums have been applied to make the amount certified for any prior quarter greater or less than the amount estimated by the Secretary of Health, Education, and Welfare for such prior quarter.

(3) The Secretary of the Treasury shall thereupon, through the Fiscal Service of the Treasury Department and prior to audit or settlement by the General Accounting Office, pay to the State, at the time or times fixed by the Secretary of Health, Education, and Welfare, the amount so certified.

(c) Notwithstanding any other provision of this Act, the Federal share of assistance payments under this part shall be reduced with respect to any State for any fiscal year after June 30, 1973, by one percentage point for each percentage point by which the number of individuals certified, under the program of such State established pursuant to section 402(a)(19)(G), to the local employment office of the State as being ready for employment or training under [part C] *section 432(b), (1), (2), or (3)*, is less than 15 per centum of the average number of individuals in such State who, during such year, are required to be registered pursuant to section 402(a)(19)(A).

(d)(1) Notwithstanding subparagraph (A) of subsection (a)(3) the rate specified in such subparagraph shall be 90 per centum (rather than 75 per centum) with respect to social and supportive services provided pursuant to section 402(a)(19)(G). *In determining the amount of the expenditures made under a State plan for any quarter with respect to social and supportive services pursuant to section 402(a)(19)(G), there shall be included the fair and reasonable value of goods and services furnished in kind from the State or any political subdivision thereof.*

(2) Of the sums authorized by section 401 to be appropriated for the fiscal year ending June 30, 1973, not more than $750,000,000 shall be appropriated to the Secretary for payments with respect to services to which paragraph (1) applies.

(e) [Repealed].

(f) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after June 30, 1973, be reduced by 1 per centum (calculated without regard to any reduction under section 403(g)) of such amount if such State—

(1) in the immediately preceding fiscal year failed to carry out the provisions of section 402(a)(15)(B) as pertain to requiring the offering and arrangement for provision of family planning services; or

(2) in the immediately preceding fiscal year (but, in the case of the fiscal year beginning July 1, 1972, only considering the third and fourth quarters thereof), failed to carry out the provisions of section 402(a)(15)(B) of the Social Security Act with respect to any individual who, within such period or periods as the Secretary may prescribe, has been an applicant for or recipient of aid to families with dependent children under the plan of the State approved under this part.

(g) Notwithstanding any other provision of this section, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters in fiscal years beginning after

June 30, 1974, be reduced by 1 per centum (calculated without regard to any reduction under section 403(f)) of such amount if such State fails to—

(1) inform all families in the State receiving aid to families with dependent children under the plan of the State approved under this part of the availability of child health screening services under the plan of such State approved under title XIX,

(2) provide or arrange for the provision of such screening services in all cases where they are requested, or

(3) arrange for (directly or through referral to appropriate agencies, organizations, or individuals) corrective treatment the need for which is disclosed by such child health screening services.

(h) Notwithstanding any other provision of this Act, the amount payable to any State under this part for quarters in a fiscal year shall with respect to quarters beginning after December 31, 1976, be reduced by 5 per centum of such amount if such State is found by the Secretary as the result of the annual audit to have failed to have an effective program meeting the requirements of section 402(a)(27) in any fiscal year beginning after September 30, 1976 (but, in the case of the fiscal year beginning October 1, 1976, only considering the second, third, and fourth quarters thereof).

(i)(1) In the case of any calendar quarter which begins after September 30, 1977, and prior to October 1, 1978, the amount payable (as determined under subsection (a) or section 1118, as the case may be) to each State, which has a State plan approved under this part, shall (subject to the succeeding paragraphs of this subsection) be increased by an amount equal to the sum of the following:

(A) an amount which bears the same ratio to $125,000,000 as the amount expended as aid to families with dependent children under the State plan of such State during the month of December 1976 bears to the amount expended as aid to families with dependent children under the State plans of all States during such month, and

(B)(i) in the case of Puerto Rico, Guam, and the Virgin Islands, an amount equal to the amount determined under subparagraph (A) with respect to such State, or

(ii) in the case of any other State, an amount which bears the same ratio to $125,000,000, minus the amounts determined under clause (i) of this subparagraph, as the amount allocated to such State, under section 106 of the State and Local Fiscal Assistance Act of 1972 for the most recent entitlement period for which allocations have been made under such section prior to the date of enactment of this subsection, bears to the total of the amounts allocated to all States under such section 106 for such period.

(2) As a condition of any State receiving an increase, by reason of the application of the foregoing provisions of this subsection, in the amount determined for such State pursuant to subsection (a) or under section 1118 (as the case may be), such State must agree to pay to any political subdivision thereof which participates in the cost of the State's plan, approved under this part, during any calendar quarter with respect to which such increase applies, so much of such increase as does not exceed 90 per centum of such political subdivision's financial contribution to the State's plan for such quarter.

(3) Notwithstanding any other provision of this part, the amount payable to any State by reason of the preceding provisions of this subsection (A) for calendar quarters prior to April 1, 1978 shall be made in a single installment, which shall be payable as shortly after October 1, 1977 as is administratively feasible, and (B) for calendar quarters after March 31, 1978 shall be made in a single installment, which shall be payable on October 1, 1978 or as shortly thereafter as is administratively feasible.

(4) (A) As used in this paragraph—

(i) the term "base period", when applied to any State, means the six-month period commencing on July 1, 1974, or January 1, 1975 with respect to which its payment error rate (as heretofore determined by the Secretary) for cash payments, made under its State plan approved under this part, is higher; and

(ii) the term "test period", when applied to any State, means the six-month period commencing January 1, 1978.

(B) Notwithstanding the preceding provisions of this subsection, the single installment (referred to in paragraph (3)) which is payable for calendar quarters after March 31, 1978, shall be subject to the following limitations:

(i) in the case of a State which, for its test period, has a payment error rate for cash payments which is not in excess of 4 per centum, there shall be paid to such State 100 per centum of such single installment,

(ii) in the case of a State which, for its test period, has an error rate for cash payments which is in excess of 4 per centum but is lower than such error rate for its base period, there shall be paid to such State a fraction of such single installment equal to one minus the ratio of the excess of the error rate of such State for the test period over 4 per centum, to the excess of the error rate of such State for the base period over 4 per centum, and

(iii) such installment shall not be paid in the case of any State which for its test period has an error rate for cash payments which is (I) in excess of 4 per centum, and (II) equal to or greater than its error rate for cash payments for its base period.

(j) Notwithstanding any other provision of this Act, the amount otherwise payable for any quarter (as determined without regard to the provisions of section 411) shall be reduced or increased, as the case may be, in accordance with the provisions of such section.

Operation of State Plans

Sec. 404. (a) In the case of any State plan for aid and services to needy families with children which has been approved by the Secretary of Health, Education, and Welfare, if the Secretary, after reasonable notice and opportunity for hearing to the State agency administering or supervising the administration of such plan, finds—

(1) that the plan has been so changed as to impose any residence requirement prohibited by section 402(b), or that in the administration of the plan any such prohibited requirement is imposed, with the knowledge of such State agency, in a substantial number of cases; or

(2) that in the administration of the plan there is a failure to comply substantially with any provision required by section 402 (a) to be included in the plan;

the Secretary shall notify such State agency that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such prohibited requirement is no longer so imposed, and that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

(b) No payment to which a State is otherwise entitled under this title for any period before September 1, 1962, shall be withheld by reason of any action taken pursuant to a State statute which requires that aid be denied under the State plan approved under this part with respect to a child because of the conditions in the home in which the child resides; nor shall any such payment be withheld for any period beginning on or after such date by reason of any action taken pursuant to such a statute if provision is otherwise made pursuant to a State statute for adequate care and assistance with respect to such child.

(c) No State shall be found, prior to January 1, 1977, to have failed substantially to comply with the requirements of section 402 (a)(27) if, in the judgment of the Secretary, such State is making a good faith effort to implement the program required by such section.

(d) After December 31, 1976, in the case of any State which is found to have failed substantially to comply with the requirements of section 402(a)(27), the reduction in any amount payable to such State required to be imposed under section 403(h) shall be imposed in lieu of any reduction, with respect to such failure, which would otherwise be required to be imposed under this section.

Use of Payments for Benefit of Child

Sec. 405. Whenever the State agency has reason to believe that any payments of aid to families with dependent children made with respect to a child are not being or may not be used in the best interests of the child, the State agency may provide for such counseling and guidance services with respect to the use of such payments and the management of other funds by the relative receiving such payments as it deems advisable in order to assure use of such payments in the best interests of such child, and may provide for advising such relative that continued failure to so use such payments will result in substitution therefor of protective payments as provided under section 406 (b)(2), or in seeking appointment of a guardian or legal representative as provided in section 1111, or in the imposition of criminal or civil penalties authorized under State law if it is determined by a court of competent jurisdiction that such relative is not using or has not used for the benefit of the child any such payments made for that purpose; and the provision of such services or advice by the State agency (or the taking of the action specified in such advice) shall not serve as a basis for withholding funds from such State under section 404 and shall not prevent such payments with respect to such child from being considered aid to families with dependent children.

Definitions

Sec. 406. When used in this part—

(a) The term "dependent child" means a needy child (1) who has been deprived of parental support or care by reason of the death, continued absence from the home, or physical or mental incapacity of a parent, and who is living with his father, mother, grandfather, grandmother, brother, sister, stepfather, stepmother, stepbrother, stepsister, uncle, aunt, first cousin, nephew, or niece in a place of residence maintained by one or more of such relatives as his or their own home, and (2) who is (A) under the age of eighteen, or (B) under the age of twenty-one and (as determined by the State in accordance with standards prescribed by the Secretary) a student regularly attending a school, college, or university, or regularly attending a course of vocational or technical training designed to fit him for gainful employment;

(b) The term "aid to families with dependent children" means money payments with respect to, or (if provided in or after the third month before the month in which the recipient makes application for aid) medical care in behalf of or any type of remedial care recognized under State law in behalf of, a dependent child or dependent children, and includes (1) money payments or medical care or any type of remedial care recognized under State law to meet the needs of the relative with whom any dependent child is living (and the spouse of such relative if living with him and if such relative is the child's parent and the child is a dependent child by reason of the physical or mental incapacity of a parent or is a dependent child under section 407), and (2) payments with respect to any dependent child (including payments to meet the needs of the relative, and the relative's spouse, with whom such child is living, and the needs of any other individual living in the same home if such needs are taken into account in making the determination under section 402(a)(7)) which do not meet the preceding requirements of this subsection but which would meet such requirements except that such payments are made to another individual who (as determined in accordance with standards prescribed by the Secretary) is interested in or concerned with the welfare of such child or relative, or are made on behalf of such child or relative directly to a person furnishing food, living accommodations, or other goods, services, or items to or for such child, relative or other individual, but only with respect to a State whose State plan approval under section 402 includes provision for—

(A) determination by the State agency that the relative of the child with respect to whom such payments are made has such inability to manage funds that making payments to him would be contrary to the welfare of the child and, therefore, it is necessary to provide such aid with respect to such child and relative through payments described in this clause (2);

(B) undertaking and continuing special efforts to develop greater ability on the part of the relative to manage funds in such manner as to protect the welfare of the family;

(C) periodic review by such State agency of the determination under clause (A) to ascertain whether conditions justifying such

determination still exist, with provision for termination of such payments if they do not and for seeking judicial appointment of a guardian or other legal representative, as described in section 1111, if and when it appears that the need for such payments is continuing, or is likely to continue, beyond a period specified by the Secretary;

(D) aid in the form of foster home care in behalf of children described in section 408(a); and

(E) opportunity for a fair hearing before the State agency on the determination referred to in clause (A) for any individual with respect to whom it is made[;].

Payments with respect to a dependent child which are intended to enable the recipient to pay for specific goods, services, or items recognized by the State agency as a part of the child's need under the State plan may (in the discretion of the State or local agency administering the plan in the political subdivision) be made, pursuant to a determination referred to in clause (2)(A), in the form of checks drawn jointly to the order of the recipient and the person furnishing such goods, services, or items and negotiable only upon endorsement by both such recipient and such person; and payments so made shall be considered for all of the purposes of this part to be payments described in clause (2). Whenever payments with respect to a dependent child are made in the manner described in clause (2) (including payments described in the preceding sentence), a statement of the specific reasons for making such payments in that manner (on which the determination under clause (2)(A) was based) shall be placed in the file maintained with respect to such child by the State or local agency administering the State plan in the political subdivision.

In addition, payments with respect to a dependent child to cover the cost of utility services or living accommodations or any part thereof may be made (in the discretion of the State or local agency administering the plan in the political subdivision but without regard to any determination under clause (2)(A)) in the form of checks drawn jointly to the order of the recipient and the person furnishing such services or accommodations and negotiable only upon endorsement by both such recipient and such person, if such child or the relative with whom he is living specifically so requests in writing; but not more than 50 per centum of the amount of the aid which is payable with respect to such child for any month may be paid in that form, and any such request shall be effective until revoked by the child or relative.

(c) The term "relative with whom any dependent child is living means the individual who is one of the relatives specified in subsection (a) and with whom such child is living (within the meaning of such subsection) in a place of residence maintained by such individual (himself or together with any one or more of the other relatives so specified) as his (or their) own home.

(d) [Repealed].

(e)(1) The term "emergency assistance to needy families with children" means any of the following, furnished for a period not in excess of 30 days in any 12-month period, in the case of a needy child under the age of 21, who is (or, within such period as may be specified by the Secretary, has been) living with any of the relatives specified in subsection (a)(1) in a place of residence maintained by one or more

of such relatives as his or their own home, but only where such child is without available resources, the payments, care, or services involved are necessary to avoid destitution of such child or to provide living arrangements in a home for such child, and such destitution or need for living arrangements did not arise because such child or relative refused without good cause to accept employment or training for employment—

(A) money payments, payments in kind, or such other payments as the State agency may specify with respect to, or medical care or any other type of remedial care recognized under State law on behalf of, such child or any other member of the household in which he is living, and

(B) such services as may be specified by the Secretary;

but only with respect to a State whose State plan approved under section 402 includes provision for such assistance.

(2) Emergency assistance as authorized under paragraph (1) may be provided under the conditions specified in such paragraph to migrant workers with families in the State or in such part or parts thereof as the State shall designate.

(f) Notwithstanding the provisions of subsection (b), the term "aid to families with dependent children" does not mean payments with respect to a parent (or other individual whose needs such State determines should be considered in determining the need of the child or relative claiming aid under the plan of such State approved under this part) of a child who fails to cooperate with any agency or official of the State in obtaining such support payments for such child. Nothing in this subsection shall be construed to make an otherwise eligible child ineligible for protective payments because of the failure of such parent (or such other individual) to so cooperate.

Dependent Children of Unemployed Fathers

Sec. 407. (a) The term "dependent child" shall, notwithstanding section 406(a), include a needy child who meets the requirements of section 406(a)(2), who has been deprived of parental support or care by reason of the unemployment (as determined in accordance with standards prescribed by the Secretary) of his father, and who is living with any of the relatives specified in section 406(a)(1) in a place of residence maintained by one or more of such relatives as his (or their) own home.

(b) The provisions of subsection (a) shall be applicable to a State if the State's plan approved under section 402—

(1) requires the payment of aid to families with dependent children with respect to a dependent child as defined in subsection (a) when—

(A) such child's father has not been employed (as determined in accordance with the standards prescribed by the Secretary) for at least 30 days prior to the receipt of such aid,

(B) such father has not without good cause, within such period (of not less than 30 days) as may be prescribed by the Secretary, refused a bona fide offer of employment or training for employment, and

(C) (i) such father has 6 or more quarters of work (as defined in subsection (d)(1)) in any 13-calendar-quarter period ending within one year prior to the application for such aid or (ii) he received unemployment compensation under an unemployment compensation law of a State or of the United States, or he was qualified (within the meaning of subsection (d)(3)) for unemployment compensation under the unemployment compensation law of the State, within one year prior to the application for such aid; and

(2) provides—

(A) for such assurances as will satisfy the Secretary that fathers of dependent children as defined in subsection (a) will be certified to the Secretary of Labor as provided in section 402(a)(19) within thirty days after receipt of aid with respect to such children;

(B) for entering into cooperative arrangements with the State agency responsible for administering or supervising the administration of vocational education in the State, designed to assure maximum utilization of available public vocational education services and facilities in the State in order to encourage the retraining of individuals capable of being retrained;

(C) for the denial of aid to families with dependent children to any child or relative specified in subsection (a)—

(i) if and for so long as such child's father, unless exempt under section 402(a)(19)(A), is not registered pursuant to such section for the work incentive program established under part C of this title, or, if he is exempt under such section by reason of clause (iii) thereof or no such program in which he can effectively participate has been established or provided under section 432(a), is not registered with the public employment offices in the State, and

(ii) with respect to any week for which such child's father qualifies for unemployment compensation under an unemployment compensation law of a State or of the United States, but refuses to apply for or accept such unemployment compensation; and

(D) for the reduction of the aid to families with dependent children otherwise payable to any child or relative specified in subsection (a) by the amount of any unemployment compensation that such child's father receives under an unemployment compensation law of a State or of the United States.

(c) Notwithstanding any other provisions of this section, expenditures pursuant to this section shall be excluded from aid to families with dependent children (A) where such expenditures are made under the plan with respect to any dependent child as defined in subsection (a), (i) for any part of the 30-day period referred to in subparagraph (A) of subsection (b)(1), or (ii) for any period prior to the time when the father satisfies subparagraph (B) of such subsection, and

(B) if, and for as long as, no action is taken (after the 30-day period referred to in paragraph (A) of subsection (b)(2)), under the program therein specified, to certify such father to the Secretary of Labor pursuant to section 402(a)(19).

(d) For purposes of this section—

(1) the term "quarter of work" with respect to any individual means a calendar quarter in which such individual received earned income of not less than $50 (or which is a "quarter of coverage" as defined in section 213(a)(2)), or in which such individual participated in a community work and training program under section 409 or any other work and training program subject to the limitations in section 409, or the work incentive program established under part C;

(2) the term "calendar quarter" means a period of 3 consecutive calendar months ending on March 31, June 30, September 30, or December 31; and

(3) an individual shall, for purposes of section 407(b)(1)(C), be deemed qualified for unemployment compensation under the State's unemployment compensation law if—

(A) he would have been eligible to receive such unemployment compensation upon filing application, or

(B) he performed work not covered under such law and such work, if it had been covered, would (together with any covered work he performed) have made him eligible to receive such unemployment compensation upon filing application.

(e) The Secretary of Health, Education, and Welfare and the Secretary of Labor shall jointly enter into an agreement with each State which is able and willing to do so for the purpose of (1) simplifying the procedures to be followed by unemployed fathers and other unemployed persons in such State in registering pursuant to section 402(a)(19) for the work incentive program established by part C of this title and in registering with public employment offices (under this section and otherwise) or in connection with applications for unemployment compensation, by reducing the number of locations or agencies where such persons must go in order to register for such programs and in connection with such applications, and (2) providing where possible for a single registration satisfying this section and the requirements of both the work incentive program and the applicable unemployment compensation laws.

Federal Payments for Foster Home Care of Dependent Children

[Sec. 408. Effective for the period beginning May 1, 1961—

[(a) The term "dependent child" shall, notwithstanding section 406(a), also include a child (1) who would meet the requirements of such section 406(a) or of section 407, except for his removal after April 30, 1961, from the home of a relative (specified in such section 406(a)) as a result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child, (2) whose placement and care are the responsibility of (A) the State or local agency administering the State plan approved under section 402, or (B) any other public agency with whom the State agency ad-

ministering or supervising the administration of such State plan has made an agreement which is still in effect and which includes provision for assuring development of a plan, satisfactory to such State agency, for such child as provided in paragraph (f)(1) and such other provisions as may be necessary to assure accomplishment of the objectives of the State plan approved under section 402, (3) who has been placed in a foster family home or child-care institution as a result of such determination, and (4) who (A) received aid under such State plan in or for the month in which court proceedings leading to such determination were initiated, or (B)(i) would have received such aid in or for such month if application had been made therefor, or (ii) in the case of a child who had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, would have received such aid in or for such month if in such month he had been living with (and removed from the home of) such a relative and application had been made therefor;

[(b) the term "aid to families with dependent children" shall, notwithstanding section 406(b), include also foster care in behalf of a child described in paragraph (a) of this section—

[(1) in the foster family home of any individual, whether the payment therefor is made to such individual or to a public or nonprofit private child-placement or child-care agency, or

[(2) in a child-care institution, whether the payment therefor is made to such institution or to a public or nonprofit private child-placement or child-care agency, but subject to limitations prescribed by the Secretary with a view to including as "aid to families with dependent children" in the case of such foster care in such institutions only those items which are included in such term in the case of foster care in the foster family home of an individual;

[(c) the number of individuals counted under clause (A) of section 403(a)(1) for any month shall include individuals (not otherwise included under such clause) with respect to whom expenditures were made in such month as aid to families with dependent children in the form of foster care; and

[(d) services described in paragraph (f)(2) of this section shall be considered as part of the administration of the State plan for purposes of section 403(a)(3);

but only with respect to a State whose State plan approved under section 402—

[(e) includes aid for any child described in paragraph (a) of this section, and

[(f) includes provision for (1) development of a plan for each such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution) to assure that he receives proper care and that services are provided which are designed to improve the conditions in the home from which he was removed or to otherwise make possible his being placed in the home of a relative specified in section 406(a), and (2) use by the State or local agency administering the State plan, to the maximum extent practicable, in placing such a child in a foster family home or child-care institution, of the services of employees, of the State public-welfare agency re-

ferred to in section 522(a) (relating to allotments to States for any child welfare services under part 3 title V) or any local agency participating in the administration of the plan referred to in such section, who perform functions in the administration of such plan.

[For the purposes of this section, the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing homes of this type as meeting the standards established for such licensing; and the term "child-care institution" means a nonprofit private child-care institution which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing.]

Community Work and Training Programs

Sec. 409. (a) For the purpose of assisting the States in encouraging, through community work and training programs of a constructive nature, the conservation of work skills and the development of new skills for individuals who have attained the age of 18 and are receiving aid to families with dependent children, under conditions which are designed to assure protection of the health and welfare of such individuals and the dependent children involved, expenditures (other than for medical or any other type of remedial care) for any month with respect to a dependent child (including payments to meet the needs of any relative or relatives, specified in section 406(a), with whom he is living) under a State plan approved under section 402 shall not be excluded from aid to families with dependent children because such expenditures are made in the form of payments for work performed in such month by any one or more of the relatives with whom such child is living if such work is performed for the State agency or any other public agency under a program (which need not be in effect in all political subdivisions of the State) administered by or under the supervision of such State agency, if there is State financial participation in such expenditures, and if such State plan includes—

(1) provisions which, in the judgment of the Secretary, provide reasonable assurance that—

(A) appropriate standards for health, safety, and other conditions applicable to the performance of such work by such relatives are established and maintained;

(B) payments for such work are at rates not less than the minimum rate (if any) provided by or under State law for the same type of work and not less than *the current minimum wage rate prescribed under section 6(a)(1) of the Fair Labor Standards Act of 1938, or (if higher)* the rates prevailing on similar work in the community;

(C) such work is performed on projects which serve a useful public purpose, do not result either in displacement of regular workers or in the performance by such relatives of work that would otherwise be performed by employees of public or private agencies, institutions, or organizations, and (except in cases of

projects which involve emergencies or which are generally of a nonrecurring nature) are of a type which has not normally been undertaken in the past by the State or community, as the case may be;

(D) in determining the needs of any such relative, any additional expenses reasonably attributable to such work will be considered;

(E) any such relative shall have reasonable opportunities to seek regular employment and to secure any appropriate training or retraining which may be available;

(F) any such relative will, with respect to the work so performed, be covered under the State workmen's compensation law or be provided comparable protection; [and]

(G) aid under the plan will not be denied with respect to any such relative (or the dependent child) for refusal by such relative to perform any such work if he has good cause for such refusal; *and*

(H) any such relative shall not be required to perform such work if such relative is—

(i) a child who is under age 18 or attending school full time;

(ii) a person who is ill, incapacitated or of advanced age;

(iii) a person so remote from an employment program that his effective participation is precluded;

(iv) a person whose presence in the home is required because of illness or incapacity of another member of the household;

(v) a mother or other relative of a child under the age of six who is caring for the child;

(vi) the mother or other female caretaker of a child, if the father or another adult male relative is in the home and not otherwise exempt from participation in the community work and training program and has not refused without good cause to participate in such program;

(vii) participating in a work incentive program under part C of this title; or

(viii) a person who is working not less than 30 hours per week;

(2) provision for entering into cooperative arrangements with the system of public employment offices in the State looking toward employment or occupational training of any such relatives performing work under such program, including appropriate provision for registration and periodic reregistration of such relatives and for maximum utilization of the job placement services and other services and facilities of such offices;

(3) provision for entering into cooperative arrangements with the State agency or agencies responsible for administering or supervising the administration of vocational education and adult education in the State, looking toward maximum utilization of available public vocational or adult education services and facilities in the State in order to encourage the training or retraining of any such relatives performing work under such program and otherwise assist them in preparing for regular employment;

(4) provision for assuring appropriate arrangements for the care and protection of the child during the absence from the home of any such relative performing work under such program in order to assure that such absence and work will not be inimical to the welfare of the child;

(5) provision that there be no adjustment or recovery by the State or any political subdivision thereof on account of any payments which are correctly made for such work: and

(6) such other provisions as the Secretary finds necessary to assure that the operation of such program will not interfere with achievement of the objectives set forth in section 401.

(b) In the case of any State which makes expenditures in the form described in subsection (a) under its State plan approved under section 402, the proper and efficient administration of the State plan, for purposes of section 403(a) (3) and (4) may not include the cost of making or acquiring materials or equipment in connection with the work performed under a program referred to in subsection (a) or the cost of supervision of work under such program, and may include only such other costs attributable to such programs as are permitted by the Secretary.

(c) *If the relative with whom a child is living is denied aid because of a failure to comply with the requirements of subsection (a), any aid for which such child is eligible shall be provided in the form of protective payments as described in section 406(b)(2) (without regard to subparagraphs (A) through (E) of such section).*

Food Stamp Distribution

Sec. 410. (a) Any State plan for aid and services to needy families with children may (but is not required under this title or any other provision of Federal law to) provide for the institution of procedures, in any or all areas of the State, by the State agency administering or supervising the administration of such plan under which any household participating in the food stamp program established by the Food Stamp Act of 1964, as amended, will be entitled, if it so elects, to have the charges, if any, for its coupon allotment under such program deducted from any aid, in the form of money payments, which is (or, except for the deduction of such charge, would be) payable to or with respect to such household (or any member or members thereof) under such plan and have its coupon allotment distributed to it with such aid.

(b) Any deduction made pursuant to an option provided in accordance with subsection (a) shall not be considered to be a payment described in section 406(b)(2).

(c) Notwithstanding any other provision of law, no agency which is designated as a State agency for any State under or pursuant to the Food Stamp Act of 1964, as amended, shall be regarded as having failed to comply with any requirement imposed by or pursuant to such Act solely because of the failure, of the State agency administering or supervising the administration of the State plan (approved under this part) of such State, to institute or carry out a procedure, described in subsection (a).

Quality Control System

Conditions of Approval

Sec. 411. (*a*)(*1*) *The Secretary shall, subject to paragraph* (*2*), *approve the quality control system of a State, to be utilized in connection with the administration of the State's plan approved under this part, if he finds that such system will effectively promote the efficient and proper operation of such plan by assuring that aid and services under the plan are not provided to individuals who are ineligible therefor, that such aid and services will not be denied to applicants who are eligible and make proper application therefor and that aid in the form of money payments furnished to any individual or family under such plan will not be greater or less than the amount correctly determined under such plan to be payable to such individual or family.*

(*2*) *The Secretary shall not approve the quality control system, referred to in paragraph* (*1*), *of any State unless he is satisfied that, under the plans for and in the operation of, such system—*

(*A*) *during each six-month period which begins on April 1 or October 1* (*commencing with the six-month period which begins April 1, 1978*) *there will be conducted by the State, in order to obtain data with respect to the functioning of the State's plan approved under this part, such sampling of the caseload under such plan as the Secretary shall by regulations prescribe, which sampling shall involve a sufficient number of cases and be of acceptable reliability clearly to indicate the incidence, kind and class of errors occurring within the State* (*and in order to assure the accuracy and effectiveness of such sampling the Secretary shall under regulations: require the States to establish and administer a special performance evaluation and corrective action system that shall, using data already available from prior quality control reviews, identify operating units, as defined by regulations prescribed by the Secretary, within the State with excessive payment error rates in comparison with the statewide payment error rate; require the States to make analyses to indicate the incidence, kind, and class of errors within each such operating unit and to prescribe corrective action affecting those operating units; and require that such analyses be made in every six-month period until error rates are substantially reduced*), *and which sampling shall* (*i*) *provide sufficient coding identification to identify each individual case and the line of responsibility for that case from the case worker up through the supervisor, local and higher level offices, the State quality control reviewer and supervisor as well as the date of last approval, the date on which each redetermination was due to be made, and the date on which each redetermination was made since the date of such last approval or, if later, within the preceding twenty-four-month period,* (*ii*) *employ such methods, schedules, and instructions, and shall be designed to elicit such data, as shall be prescribed by the Secretary, and* (*iii*) *be designed to disclose* (*as of the time any case was selected to be included in the sample*) *error rates with respect to* (*I*) *eligibility for aid under such approved State plan* (*after application of all requirements imposed by or pursuant to Federal law with respect to the approval of State plans under this part*), (*II*) *overpayment and underpayment of aid under such approved State plan* (*with error rates with respect to*

ineligibles, overpayments, and underpayments being stated both on the basis of case error rates and on the basis of payment error rates), and (III) incorrect denials and terminations of aid on the basis of case error only.

(B) in connection with the conduct of such sampling with respect to any such six-month period, there will be conducted a field investigation (including personal interviews) of all cases (other than those involving incorrect denials or terminations of aid) included in the samples taken under the State's quality control during such period independently to establish and verify each element of eligibility and payment as of the review date,

(C) not later than sixty days following each month of any such six-month period, there will be submitted to the Secretary (in such form and manner, and containing such information as the Secretary may require; except that the Secretary may not require that identifying information on State and local employees be submitted to or maintained by himself or any other officer or employee of the Department of Health, Education, and Welfare) the data obtained from or in connection with each sample taken in such month, together with the individual findings with respect to each case included in any such sample (and a copy of the material so submitted shall promptly be furnished to the Inspector General),

(D) not later than one hundred and twenty days following any such six-month period, there will be submitted to the Secretary a corrective action plan (a copy of which shall promptly be furnished to the Inspector General) which (i) is based on analyses of the information disclosed by the combined findings of the State reviews and the Federal reviews conducted (as required pursuant to this paragraph) during such period as to the nature and cause of payment errors, and (ii) meets such specifications as the Secretary deems necessary to assure the effectiveness of the State's quality control system,

(E) there will be provided to the Secretary, the Inspector General, Health, Education, and Welfare quality control personnel, and State and local quality control personnel involved with the State's plan approved under this part access to State and local records with respect to the State plan approved under this part, with respect to applicants and recipients of aid or services under such plan, and with respect to individuals receiving payments of or from such aid in behalf of an aid recipient, and with respect to third parties, and

(F) the public will be notified (through news releases and otherwise) of error rate findings (i) with respect to errors described in subparagraph (A)(iii) (I) and (II) (as disclosed by the combined findings of the State reviews and the Federal reviews conducted during each six-month period referred to in subparagraph (A)), of corrective action measures taken or to be taken, of measures taken or to be taken with respect to discontinued aid and services to individuals ineligible therefor (including corrective action plans submitted to the Secretary pursuant to subparagraph (D)), (ii) with respect to errors described in subparagraphs (A)(iii)(III) as disclosed by the combined findings of the State and Federal reviews of the sample conducted during each such six-month period, and (iii) with respect to errors described in subsection (c) as disclosed by the Federal review of cases previously found in error in the preceding six-month period.

Monitoring by Inspector General

(b)(1) The Secretary shall utilize the services of the Inspector General to monitor closely, through such procedures as may be necessary, the operation of and State and Federal findings made under the quality control systems established pursuant to this section, to monitor the incidence and extent of fraud and abuse in the State plans with respect to which such systems are established, and to make recommendations for improvements in or alternatives to such systems or portions thereof. The Secretary shall also utilize the services of the Inspector General to monitor closely the quality control systems established for the State programs approved under titles I, X, XIV, XVI, and XIX of this Act, and he shall have the same duties, authority, and responsibilities with respect to the monitoring of the quality control systems of these titles as he does in the case of the monitoring of the quality control provisions established with respect to part A of title IV.

(2) The Inspector General shall use appropriate resources including specialists in computer systems analysis and welfare administration and management to develop, through the use of Federal and State quality control findings, recommendations for improvements in, or alternatives to, methods for determining fraud and abuse, for determining cases with large dollar errors, for ascertaining the locality and local offices with the greatest number of such errors, and for reducing high erroneous expenditures.

Federal Review of State Samples

(c)(1) The Secretary shall conduct a field review (including personal interviews) of all cases (other than those involving incorrect denials or terminations of aid) (A) of a representative subsample of each State's sample and (B) of all cases in each State's sample which were found to be erroneously excluded from the State's investigation required by subparagraph (a)(2)(C), after examining all such cases excluded (except that the Secretary may specify by regulation categories of cases which will not require full field investigation), submitted to him with respect to each six-month period, as provided in conformity with the requirements imposed by subsection (a). Such review of a subsample of a State's sample, submitted with respect to any month of the six-month period (and of cases not investigated by the State), shall be conducted with a view further to assuring the validity of the data and information resulting from the sample from which the subsample is taken and shall be completed and a copy of the data obtained from and in connection with each sample taken in such month together with the individual findings with respect to each case included in the subsample shall be submitted to the Inspector General not later than ninety days after such period.

(2) The Secretary shall also conduct a case record review of cases previously found to be in error in the preceding six-month period to ascertain whether corrective action has been taken in such cases which review shall be completed and a copy of the data obtained from and in connection with each case on which no action was taken to correct the payment error or the action taken to terminate or adjust the pay-

ment error was erroneous together with the individual findings with respect to each case shall be submitted to the Inspector General not later than ninety days after such preceding six-month period.

(3) The findings of each case reviewed pursuant to this subsection shall include coding identification to identify the Federal quality control reviewer who made the review and his or her supervisor.

Technical Assistance

(d) The Secretary shall provide such technical assistance to States and local administrative units utilized in the administration of any State's plan approved under this part as he determines necessary to assist States to plan, design, develop, and operate a quality control system meeting the conditions for approval, by the Secretary, set forth or referred to in subsection (a). The Secretary shall utilize appropriate technical and management specialists to provide technical assistance in developing the method or methods best suited to the needs of particular States, and local administrative units within States, designed quickly and effectively to reduce high error rates and erroneous expenditures.

Penalty for Failure of State to Furnish Samples

(e) If any State fails, with respect to any six-month period referred to in subsection (a), to take in the manner required by such subsection or regulations promulgated pursuant thereto the samples referred to therein and timely to submit (subject to the discretion of the Secretary) to the Secretary all information required pursuant to such subsection, then the Secretary shall conduct such sample and to do all things with respect thereto that the State is, pursuant to subsection (a), required to do, but has failed to do, except that in lieu of developing a corrective action plan, the findings will be reported to the Governor and the legislature of the State. The amount which would be payable to any such State with respect to administrative expenditures made during such six-month period in carrying out its State plan (approved under this part), as determined by all provisions of law other than this subsection, shall be reduced by an amount equal to twice the cost incurred by the Federal Government in conducting such sample and in doing such things with respect thereto.

Incentive Adjustments in Federal Financial Participation

(f) If the dollar error rate of excess payments of aid furnished by a State under its State plan, approved under this part, with respect to any six-month period, as based on samples and evaluations thereof required or provided for in other provisions of this section, is—

(1) at least 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be determined without regard to the provisions of this subsection; or

(2) less than 4 per centum, the amount of the Federal financial participation in the expenditures made by the State in carrying out such plan during such period shall be the amount determined without regard to this subsection, plus, of the amount by which such expenditures are less than they would have been if the er-

roneous excess payments of aid had been at a rate of 4 per centum—

(A) 10 per centum of the Federal share of such amount, in case such rate is not less than 3.5 per centum,

(B) 20 per centum of the Federal share of such amount, in case such rate is at least 3.0 per centum but less than 3.5 per centum,

(C) 30 per centum of the Federal share of such amount, in case such rate is at least 2.5 per centum but less than 3.0 per centum,

(D) 40 per centum of the Federal share of such amount, in case such rate is at least 2.0 per centum but less than 2.5 per centum,

(E) 50 per centum of the Federal share of such amount, in case such rate is less than 2.0 per centum.

Definitions and Procedures

(g)(1) The dollar error rate of excess payments of aid, for purposes of subsection (f), shall be determined, for any six-month period, on the basis of the State quality control data and Federal quality control subsample data taken pursuant to the preceding provisions of this section with respect to such period.

(2) In determining the dollar error rate of excess payments for purposes of subsection (f), there shall be included all payments of aid under the State plan which are (A) made to individuals or families who are ineligible therefor, or (B) made to individuals or families who are eligible therefor, but in an amount in excess of the correct and proper amount of aid which should have been furnished to such individuals under the State plan.

(3) In computing ineligibility and overpayment case and dollar error rates for purposes of this section, the Secretary shall use the point estimate at the 95 percent confidence level of a statistical regression formula applied to case and dollar error rates obtained from both the State and Federal data. For purposes of computing case and dollar error rates the Secretary shall utilize the figures derived from the State's full sample, adjusted by the regression formula for differences found in the Federal subsample. The regression formula methodology to be applied shall be described in detail by the Secretary and the description thereof shall be made available to all States eligible to establish State plans approvable under this part.

(4)(A) Subject to subparagraph (B), the term "case error" means a payment of aid to an ineligible person, an overpayment or underpayment of such aid, or an incorrect denial or termination of such aid, to an individual or family who is eligible for aid under the State plan approved under this part, and which plan is administered and operated in accordance with the provisions of such plan, and the requirements imposed with respect to such plan and its operation by or pursuant to this part or regulations of the Secretary promulgated hereunder. In a negative case action (as defined in paragraph (11)) there shall be counted as error only those cases where the reason asserted by the State agency for such action was incorrect. An error shall be considered to exist in any case in which a change in circum-

stances which affects eligibility for or amount of aid payable under such State plan is not correctly reflected in a terminated or adjusted payment by the second month following the month in which the change occurred.

(B)(i) An overpayment, underpayment, or payment to ineligibles that is related to a change in circumstances shall not be counted as a case or dollar error if:

(I) the payment continues unadjusted because a hearing was requested, or

(II) the change occurred in the review month, or in the month immediately preceding the review month.

(ii) For purposes of this subparagraph—

(I) a hearing decision is considered to be a change in circumstances, and

(II) the fact that the State agency has complied with the requirements for redetermination of eligibility has no bearing.

(C) When the overpayment, underpayment, or payment to ineligibles is the result of several changes in circumstances, each change shall be evaluated as to its impact on the final determination of case or dollar error.

(5) The term "assistance unit" means all individuals whose needs, income and resources are considered in determining eligibility for, and the amount of, an aid payment for which Federal financial participation is claimed under this part.

(6) The term "payment to ineligibles" means a financial assistance payment received by or for an assistance unit, for the review month, for which that unit was totally ineligible under the approved State plan in effect on the first day of the review month.

(7) The term "overpayment" means a financial assistance payment received by or for an assistance unit for the review month, which exceeds by at least $1.00 the amount for which that unit was eligible under the approved State plan in effect on the first day of the review month.

(8) The term "underpayment" means a financial assistance payment received by or for an assistance unit for the review month, which is at least $1.00 less than the amount for which that assistance unit was eligible under the approved State plan in effect on the first day of the review month.

(9) The term "review month" means the specific calendar or fiscal month for which the assistance payment under review was received.

(10) The term "assistance payment" means a single payment (or two successive payments, in States that pay on a semimonthly basis), received for a specific calendar or fiscal month.

(11) The term "negative case action" means an action to deny an application for assistance or otherwise to dispose of such an application without a determination of eligibility (for instance, because the application was withdrawn or abandoned), or an action to terminate assistance.

(12) The term "Inspector General" means the Inspector General of the Department of Health, Education, and Welfare established by section 201 of Public Law 94–505.

Report to Congress

(h)(1) *Not later than six months following each six-month period referred to in subsection (a), the Secretary shall submit to the Congress a full and complete report with respect to the samples taken with respect to each State during such period which shall contain a detailed analysis of such samples taken from each State, and shall include a description of the rates of error in the payments and caseloads of each State, and of operating units within the State with excessive payment error rates, as indicated by such samples and by Federal subsamples thereof, a description of corrective action measures taken or planned to be taken by States to reduce their error rates (and the error rates of operating units, within States, having excessive payment error rates) and otherwise improve the economical and efficient administration of their State plan approved under this part, a description of kinds and classes of error cases from a previous six-month period in which there were no actions taken to correct the error or the actions taken to terminate or adjust the payment error were erroneous and such other matters as may be necessary or useful in enabling the Congress to gain a complete understanding of the degree to which the goal of effective, efficient, and economical administration of such approved State plans is being met. The Secretary shall also report to the Congress on the actions of the Inspector General with respect to fraud and abuse in the aid to families with dependent children programs, with respect to the monitoring of the quality control systems, and with respect to developing recommendations to, or alternates for, methods for determining cases with large dollar errors and ascertaining the locality or local administrative units in which such errors are most serious.*

(2) The Secretary shall make available first to the Congress and then to the public through national news media, the results of samples and error reduction efforts taken, undertaken, or planned, pursuant to the requirements of this section. Public notice of the information referred to in the preceding sentence may be made prior to submission of the periodic reports to the Congress required under paragraph (1), but shall not be earlier than ten days after the States have been furnished notice of their final error rates with respect to any six-month period.

Puerto Rico, the Virgin Islands, and Guam

(i) In the administration of titles I, X, XIV, and XVI, as in effect in the case of the Commonwealth of Puerto Rico, the Virgin Islands, and Guam, each such title shall be deemed to include requirements and related provisions with respect to quality control which are equivalent to, and effective at the same time as, those imposed in this title by this section, by section 402(a)(29), and by section 403(j). The Inspector General shall have the same duties, authority, and responsibilities with respect to the monitoring of the quality control systems of the aforesaid jurisdictions as he does in the case of the monitoring of the quality control provisions established with respect to this title.

Recipient Identification Card

Sec. 412. *Each State or political subdivision thereof administering programs under this part may require, as a condition of eligibility, that each household determined eligible for such programs be issued an identification card containing the signature and photograph of the individual to whom aid under any such program is paid. Such identification card shall include, but not be limited to, the following items identifying the recipient:*

(1) name, address, and Social Security number;
(2) the State or local subdivision thereof in which issued;
(3) the issuance and expiration dates;
(4) the programs for which the recipient is eligible; and
(5) other information specified by the issuing agency.

Determination of Benefits in Certain Cases Where Child Lives With Relative Not Legally Responsible for His Support

Sec. 413. *Notwithstanding any other provision of this part, a State plan for aid and services to needy families with children shall not be regarded as failing to comply with the requirements imposed with respect to approved State plans under this part solely because, under such plan, in any case in which one or more children live in the home of a relative—*

(1) who is not legally responsible for the support of such child or children, or

(2) who is legally responsible for the support of such child or children, but is not eligible for aid under the State plan because such relative is being supported by another person or program,

the amount of the aid (A) furnished to such child or children (exclusive of that referred to in clause (B)) bears the same ratio to the amount of the benefit which would be furnished, under the State plan, if the relative or relatives with whom such child or children are living were eligible for aid under the State plan, as the number of such children bears to the number of such children plus that of such relatives, and (B) furnished to such child or children to cover shelter, utilities, and similar expenses bears the same ratio to the total amount which would be furnished for such expenses, if such relative or relatives were eligible for such aid, as the number of such children bears to the number of such children plus that of such relatives.

Technical Assistance for Development Management Information Systems

Sec. 414. *The Secretary shall provide such technical assistance to States as he determines necessary to assist States to plan, design, develop, or install and provide for the security of, the management information systems referred to in section 403(a)(B) of this Act.*

Access to Wage Information

Sec. 415. *(a) Notwithstanding any other provision of law, the Secretary shall make available to States and political subdivisions*

thereof wage information contained in the records of the Social Security Administration which is necessary (as determined by the Secretary in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children, approved under this part, and which is specifically requested by such State or political subdivision for such purposes.

(b) The Secretary shall establish such safeguards as are necessary (as determined by the Secretary under regulations) to insure that information made available under the provisions of this section is used only for the purposes authorized by this section.

Part B—Child Welfare Services

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[Allotment Percentage and Federal Share

[Sec. 423. (a) The "allotment percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be the percentage which bears the same ratio to 50 per centum as the per capita income of such State bears to the per capita income of the United States; except that (1) the allotment percentage shall in no case be less than 30 per centum or more than 70 per centum, and (2) the allotment percentage shall be 70 per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

[(b) The "Federal share" for any State for any fiscal year shall be 100 per centum less that percentage which bears the same ratio to 50 per centum as the per capita income of such States bears to the per capita income of the United States, except that (1) in no case shall the Federal share be less than 33⅓ per centum or more than 66⅔ per centum, and (2) the Federal share shall be 66⅔ per centum in the case of Puerto Rico, the Virgin Islands, and Guam.

[(c) The Federal share and allotment percentage for each State shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the two fiscal years in the period beginning October ber 1 next succeeding such promulgation: *Provided*, That the Federal shares and allotment percentages promulgated under section 524(c) of the Social Security Act in 1966 shall be effective for purposes of this section for the fiscal years ending June 30, 1968, and June 30, 1969.

[(d) For purposes of this section, the term "United States" means the fifty States and the District of Columbia.]

Federal Share

***Sec. 423.** The "Federal share" for any State shall, effective on and after October 1, 1977, be 75 per centum.*

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Definition

Sec. 425. (*a*) For purposes of this title, the term "child-welfare services" means public social services which supplement, or substitute for, parental care and supervision for the purpose of (1) preventing or remedying, or assisting in the solution of problems which may result in, the neglect, abuse, exploitation, or delinquency of children, (2) protecting and caring for homeless, dependent, or neglected children, (3) protecting and promoting the welfare of children of working mothers, and (4) otherwise protecting and promoting the welfare of children, including the strengthening of their own homes where possible or, where needed, the provision of adequate care of children away from their homes in foster family homes or day-care or other child-care facilities. *Expenditures made by a State for any calendar quarter which begins after September 30, 1977 for foster care services which do not constitute child welfare services shall be treated, for purposes of making Federal payments under this part with respect to expenditures for child welfare services, as if such foster care services did constitute child welfare services; except that, the amount payable to the State with respect to expenditures made for child welfare services and for foster care services during any such quarter shall not exceed 100 per centum of the amount of the expenditures made for child welfare services as determined without regard to this sentence.*

(*b*) *Funds expended by a State for any calendar quarter to comply with the statistical report required by section 476(b), and funds expended with respect to non-recurring costs of adoption proceedings in the case of children placed for adoption with respect to whom assistance is provided under a State plan for adoption assistance approved under part E of this title, shall be deemed to have been expended for child welfare services.*

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Limitation on Payments With Respect to Foster Care

Sec. 427. *Notwithstanding any other provision of this part, if for any fiscal year which begins after September 30, 1977, there is appropriated under section 420 an amount in excess of the amount appropriated for the fiscal year ending on September 30, 1977, the amount payable to any State for expenditures made to provide child welfare services in the form of foster care maintenance payments in foster family homes or other foster care facilities, shall not exceed the amount of its allotment (before application of the provisions of section 424) under this part for the fiscal year ending September 30, 1977. Funds made available to any State pursuant to section 474(c) shall be subject to the limitation imposed by the preceding sentence.*

Portions of Increased Allotments to be Used for Certain Services

Sec. 428. (*a*)(*1*) *If, for any fiscal year after 1977, there is appropriated under section 420 a sum in excess of the sum appropriated thereunder for the fiscal year 1977, the Appropriation Act by which such sum is appropriated may restrict a specified per centum thereof (the amount of which shall not exceed 50 per centum of the amount*

of such excess) to be used for the carrying out of the activities and programs described in subsection (b) and (c).

(2) Whenever a specified per centum of the sum appropriated under section 420 for any fiscal year is restricted pursuant to paragraph (1), such specified per centum of the allotment of each State for such fiscal year shall be restricted to the carrying out of the activities and programs described in subsections (b) and (c).

(b) For the first year that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may, except as provided in subsection (c), be expended only for the following purposes (and amounts so expended shall be conclusively presumed to be expended for child welfare services):

(1) for the purpose of conducting an inventory of all children who have been in foster care under the responsibility of the State for a period of six months preceding the inventory; for the purpose of determining the appropriateness of, and necessity for, the current foster placement, whether the child can be or should be returned to his parents or should be freed for adoption, and the services necessary to facilitate either the return of the child or the placement of the child for adoption or legal guardianship;

(2) for the purpose of designing and developing to the satisfaction of the Secretary—

(A) a statewide information system from which the status, demographic characteristics, location, and goals for the placement of every child in foster care or who has been in such care within the preceding twelve months can readily be determined;

(B) a case review system for each child receiving foster care under the supervision of the State; and

(C) a service program designed to help children remain with their families and, where appropriate, help children return to families from which they have been removed or be placed for adoption or legal guardianship.

(c) For any fiscal year (after the first fiscal year) that any amount of a State's allotment is restricted under subsection (a)(2), the amount so restricted may be expended only for the implementation and operation of the systems and programs described in subsection (b)(2) (and amounts for such purposes shall be conclusively presumed to be expended for child welfare services). In the case of any State which has completed an inventory of the type specified in subsection (b)(1) and the design and development of the program and systems referred to in subsection (b)(2) prior to the first fiscal year referred to in subsection (b), or at any time prior to the end of such fiscal year, the amount of such State's allotment which is restricted under subsection (a)(2) may thereafter be used for the purposes specified in the first sentence of this subsection.

(d)(1) As used in subsection (b)(2)(B), the term "case review system" means a procedure for assuring that—

(A) each child has a case plan designed to achieve placement in the least restrictive (most family-like) setting available and in close proximity to the parents' home, consistent with the best interest and special needs of the child.

(B) the status of each child is reviewed periodically but no less frequently than once every 12 months by either a court or by administrative review (as defined in paragraph (2)) in order to determine the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, and the extent of progress which has been made toward alleviating or mitigating the causes necessitating placement in foster care, and to project a likely date by which the child may be returned to the home or placed for adoption or legal guardianship, and

(C) with respect to each such child, procedural safeguards will be applied, among other things, to assure each child in foster care under the supervision of the State of a dispositional hearing to be held, in a family or juvenile court or another court (including a tribal court) of competent jurisdiction, or by an administrative body appointed by the court, no later than twenty-four months after the original placement, which hearing shall determine the future status of the child; and procedural safeguards shall also be applied with respect to parental rights, to the removal of the child from the home of his parents, to a change in the child's placement, and to any determination affecting visitation privileges of parents.

(2) As used in paragraph (1)(B), the term "administrative review" means a review open to the participation of the parents of the child, conducted by a panel of appropriate persons at least one of whom is not responsible for the case management of, or the delivery of services to, either the child or the parents who are the subject of the review.

Payments to Indian Organizations

Sec. 429. (a) The Secretary may, in appropriate cases (as determined by the Secretary) make payments under this part directly to an Indian tribal organization within any State which has a plan for child-welfare services approved under this part. Such payments shall be made in such manner and in such amounts as the Secretary determines to be appropriate.

(b) Amounts paid under subsection (b) shall be deemed to be a part of the allotment (as determined under section 421) for the State in which such Indian tribal organization is located.

(c) For purposes of this section—

(1) the term "tribal organization" means the recognized governing body of any Indian tribe, or any legally established organization of Indians which is controlled, sanctioned, or chartered by such governing body; and

(2) the term "Indian tribe" means any tribe, band, nation, or other organized group or community of Indians (including any Alaska Native village or regional or village corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act (Public Law 92-203; 85 Stat. 688)) which (A) is recognized as eligible for the special programs and services provided by the United States to Indians because of their status as Indians, or (B) is located on, or in proximity to, a Federal or State reservation or rancheria.

Part C—Work Incentive Program for Recipients of Aid Under State Plan Approved Under Part A

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Part D—Child Support and Establishment of Paternity Appropriation

Sec. 451. For the purpose of enforcing the support obligations owed by absent parents to their children, locating absent parents, establishing paternity, and obtaining child support, there is hereby authorized to be appropriated for each fiscal year a sum sufficient to carry out the purposes of this part.

Duties of the Secretary

Sec. 452. (a) The Secretary shall establish, within the Department of Health, Education, and Welfare a separate organizational unit, under the direction of a designee of the Secretary, who shall report directly to the Secretary and who shall—

(1) establish such standards for State programs for locating absent parents, establishing paternity, and obtaining child support as he determines to be necessary to assure that such programs will be effective;

(2) establish minimum organizational and staffing requirements for State units engaged in carrying out such programs under plans approved under this part;

(3) review and approve State plans for such programs;

(4) evaluate the implementation of State programs established pursuant to such plan, conduct such audits of State programs established under the plan approved under this part as may be necessary to assure their conformity with the requirements of this part, and, not less often than annually, conduct a complete audit of the programs established under such plan in each State and determine for the purposes of the penalty provision of section 403(h) whether the actual operation of such programs in each State conforms to the requirements of this part;

(5) assist States in establishing adequate reporting procedures and maintain records of the operations of programs established pursuant to this part in each State;

(6) maintain records of all amounts collected and disbursed under programs established pursuant to the provisions of this part and of costs incurred in collecting such amounts:

(7) provide technical assistance to the States to help them establish effective systems for collecting child support and establishing paternity;

(8) receive applications from States for permission to utilize the courts of the United States to enforce court orders for support against absent parents and, upon a finding that (A) another State has not undertaken to enforce the court order of the originating State against the absent parent within a reasonable time, and (B) that utilization of the Federal courts is the only reasonable method of enforcing such order, approve such applications;

(9) operate the Parent Locator Service established by section 453; and

(10) not later than three months after the end of each fiscal year, beginning with the year 1977, submit to the Congress a full and complete report on all activities undertaken pursuant to the provisions of this part, which report shall include, but not be limited to, the following:

(A) total program costs and collections set forth in sufficient detail to show the cost to the States and the Federal Government, the distribution of collections to families, State and local governmental units, and the Federal Government; and an identification of the financial impact of the provisions of this part;

(B) costs and staff associated with the Office of Child Support Enforcement;

(C) the number of child support cases in each State during each quarter of the fiscal year last ending before the report is submitted and during each quarter of the preceding fiscal year (including the transitional period beginning July 1, 1976, and ending September 30, 1976, in the case of the first report to which this subparagraph applies), and the disposition of such cases;

(D) the status of all State plans under this part as of the end of the fiscal year last ending before the report is submitted, together with an explanation of any problems which are delaying or preventing approval of State plans under this part;

(E) data, by State, on the use of the Federal Parent Locator Service, and the number of locate requests submitted without the absent parent's social security account number;

(F) the number of cases, by State, in which an applicant for or recipient of aid under a State plan approved under part A has refused to cooperate in identifying and locating the absent parent and the number of cases in which refusal so to cooperate is based on good cause (as determined in accordance with the standards referred to in section 402(a)(26)(B)(ii));

(G) data, by State, on the use of Federal courts and on use of the Internal Revenue Service for collections, the number of court orders on which collections were made, the number of paternity determinations made and the number of parents located, in sufficient detail to show the cost and benefits to the States and to the Federal Government; and

(H) the major problems encountered which have delayed or prevented implementation of the provisions of this part during the fiscal year last ending prior to the submission of such report.

(b) The Secretary shall, upon the request of any State having in effect a State plan approved under this part, certify the amount of any child support obligation assigned to such State to the Secretary of the Treasury for collection pursuant to the provisions of section 6305 of the Internal Revenue Code of 1954. No amount may be certified for collection under this subsection except the amount of the delinquency under

a court order for support and upon a showing by the State that such State has made diligent and reasonable efforts to collect such amounts utilizing its own collection mechanisms, and upon an agreement that the State will reimburse the United States for any costs involved in making the collection. The Secretary after consultation with the Secretary of the Treasury may, by regulation, establish criteria for accepting amounts for collection and for making certification under this subsection including imposing such limitations on the frequency of making such certifications under this subsection.

(c) (1) There is hereby established in the Treasury a revolving fund which shall be available to the Secretary without fiscal year limitation, to enable him to pay to the States for distribution in accordance with the provisions of section 457 such amounts as may be collected and paid (subject to paragraph (2) into such fund under section 6305 of the Internal Revenue Code of 1954.

(2) There is hereby appropriated to the fund, out of any moneys in the Treasury not otherwise appropriated, amounts equal to the amounts collected under section 6305 of the Internal Revenue Code of 1954, reduced by the amounts credited or refunded as overpayments of the amounts so collected. The amounts appropriated by the preceding section shall be transferred at least quarterly from the general fund of the Treasury to the fund on the basis of estimates made by the Secretary of the Treasury. Proper adjustments shall be made in the amounts subsequently transferred to the extent prior estimates were in excess of or less than the amounts required to be transferred.

Parent Locator Service

Sec. 453. (a) The Secretary shall establish and conduct a Parent Locator Service, under the direction of the designee of the Secretary referred to in section 452(a), which shall be used to obtain and transmit to any authorized person (as defined in subsection (c)) information as to the whereabouts of any absent parent when such information is to be used to locate such parent for the purpose of enforcing support obligations against such parent.

(b) Upon request, filed in accordance with subsection (d) of any authorized person (as defined in subsection (c)) for the most recent address and place of employment of any absent parent, the Secretary shall, notwithstanding any other provision of law, provide through the Parent Locator Service such information to such person, if such information—

(1) is contained in any files or records maintained by the Secretary or by the Department of Health, Education, and Welfare; or

(2) is not contained in such files or records, but can be obtained by the Secretary, under the authority conferred by subsection (e), from any other department, agency, or instrumentality, or the United States or of any State.

No information shall be disclosed to any person if the disclosure of such information would contravene the national policy or security interests of the United States or the confidentiality of census data. The Secretary shall give priority to requests made by any authorized person described in subsection (c)(1).

(c) As used in subsection (a), the term "authorized person" means—

(1) any agent or attorney of any State having in effect a plan approved under this part, who has the duty or authority under such plans to seek to recover any amounts owed as child support (including, when authorized under the State plan, any official of a political subdivision);

(2) the court which has authority to issue an order against the absent parent for the support and maintenance of a child, or any agent of such court; and

(3) the resident parent, legal guardian, attorney, or agent of a child (other than a child receiving aid under part A of this title) (as determined by regulations prescribed by the Secretary) without regard to the existence of a court order against an absent parent who has a duty to support and maintain any such child.

(d) A request for information under this section shall be filed in such manner and form as the Secretary shall by regulation prescribe and shall be accompanied or supported by such documents as the Secretary may determine to be necessary.

(e) (1) Whenever the Secretary receives a request submitted under subsection (b) which he is reasonably satisfied meets the criteria established by subsections (a), (b), and (c), he shall promptly undertake to provide the information requested from the files and records maintained by any of the departments, agencies, or instrumentalities of the United States or of any State.

(2) Notwithstanding any other provision of law, whenever the individual who is the head of any department, agency, or instrumentality of the United States receives a request from the Secretary for information authorized to be provided by the Secretary under this section, such individual shall promptly cause a search to be made of the files and records maintained by such department, agency, or instrumentality with a view to determining whether the information requested is contained in any such files or records. If such search discloses the information requested, such individuals shall immediately transmit such information to the Secretary, except that if any information is obtained the disclosure of which would contravene national policy or security interests of the United States or the confidentiality of census data, such information shall not be transmitted and such individual shall immediately notify the Secretary. If such search fails to disclose the information requested, such individual shall immediately so notify the Secretary. The costs incurred by any such department, agency, or instrumentality of the United States or of any State in providing such information to the Secretary shall be reimbursed by him. Whenever such services are furnished to an individual specified in subsection (c) (3), a fee shall be charged such individual. The fee so charged shall be used to reimburse the Secretary or his delegate for the expense of providing such services.

(f) The Secretary, in carrying out his duties and functions under this section, shall enter into arrangements with State agencies administering State plans approved under this part for such State agencies to accept from resident parents, legal guardians, or agents of a child described in subsection (c) (3) and, after determining that the absent parent cannot be located through the procedures under the control of such State agencies, to transmit to the Secretary requests for informa-

tion with regard to the whereabouts of absent parents and otherwise to cooperate with the Secretary in carrying out the purposes of this section.

State Plan for Child Support

Sec. 454. A State plan for child support must—

(1) provide that it shall be in effect in all political subdivisions of the State;

(2) provide for financial participation by the State;

(3) provide for the establishment or designation of a single and separate organizational unit, which meets such staffing and organizational requirements as the Secretary may by regulation prescribe, within the State to administer the plan;

(4) provide that such State will undertake—

(A) in the case of a child born out of wedlock with respect to whom an assignment under section 402(a)(26) of this title is effective, to establish the paternity of such child unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so, and

(B) in the case of any child with respect to whom such assignment is effective, to secure support for such child from his parent (or from any other person legally liable for such support), utilizing any reciprocal arrangements adopted with other States (unless the agency administering the plan of the State under part A of this title determines in accordance with the standards prescribed by the Secretary pursuant to section 402(a)(26)(B) that it is against the best interests of the child to do so), except that when such arrangements and other means have proven ineffective, the State may utilize the Federal courts to obtain or enforce court orders for support.

(5) provide that, in any case in which child support payments are collected for a child with respect to whom an assignment under section 402(a)(26) is effective, such payments shall be made to the State for distribution pursuant to section 457 and shall not be paid directly to the family except that this paragraph shall not apply to such payments (except as provided in section 457(c)) for any month in which the amount collected is sufficient to make such family ineligible for assistance under the State plan approved under part A;

(6) provide that (A) the child support collection or paternity determination services established under the plan shall be made available to any individual not otherwise eligible for such services upon application filed by such individual with the State, (B) an application fee for furnishing such services may be imposed, except that the amount of any such application fee shall be reasonable, as determined under regulations of the Secretary, and (C) any costs in excess of the fee so imposed may be collected from such individual by deducting such costs from the amount of any recovery made;

(7) provide for entering into cooperative arrangements with appropriate courts and law enforcement officials (A) to assist the agency administering the plan, including the entering into of financial arrangements with such courts and officials in order to assure optimum results under such program, and (B) with respect to any other matters of common concern to such courts or officials and the agency administering the plan;

(8) provide that the agency administering the plan will establish a service to locate absent parents utilizing—

(A) all sources of information and available records, and

(B) the Parent Locator Service in the Department of Health, Education, and Welfare;

(9) provide that the State will, in accordance with standards prescribed by the Secretary, cooperate with any other State—

(A) in establishing paternity, if necessary,

(B) in locating an absent parent residing in the State (whether or not permanently) against whom any action is being taken under a program established under a plan approved under this part in another State,

(C) in securing compliance by an absent parent residing in such State (whether or not permanently) with an order issued by a court of competent jurisdiction against such parent for the support and maintenance of a child or children of such parent with respect to whom aid is being provided under the plan of such other State, and

(D) in carrying out other functions required under a plan approved under this part;

(10) provide that the State will maintain a full record of collections and disbursements made under the plan and have an adequate reporting system;

(11) provide that amounts collected as child support shall be distributed as provided in section 457;

(12) provide that any payment required to be made under section 456 or 457 to a family shall be made to the resident parent, legal guardian, or caretaker relative having custody of or responsibility for the child or children;

(13) provide that the State will comply with such other requirements and standards as the Secretary determines to be necessary to the establishment of an effective program for locating absent parents, establishing paternity, obtaining support orders, and collecting support payments;

(14) comply with such bonding requirements, for employees who receive, disburse, handle, or have access to, cash, as the Secretary shall by regulations prescribe; and

(15) maintain methods of administration which are designed to assure that persons responsible for handling cash receipts shall not participate in accounting or operating functions which would permit them to conceal in the accounting records the misuse of cash receipts (except that the Secretary shall by regulations provide for exceptions to this requirement in the case of sparsely populated areas where the hiring of unreasonable additional staff would otherwise be necessary).

Payments to States

Sec. 455. (a) From the sums appropriated therefor, the Secretary shall pay to each State for each quarter, beginning with the quarter commencing July 1, 1975, an amount—

(1) equal to 75 percent of the total amounts expended by such State during such quarter for the operation of the plan approved under section 454, and

(2) equal to 50 percent of the total amounts expended by such State during such quarter for the operation of a plan which meets the conditions of section 454 except as is provided by a waiver by the Secretary which is granted pursuant to specific authority set forth in the law[;].

[except that no amount shall be paid to any State on account of furnishing child support collection or paternity determination services (other than the parent locator services) to individuals under section 454(6) during any period beginning after September 30, 1978.]

(b)(1) Prior to the beginning of each quarter, the Secretary shall estimate the amount to which a State will be entitled under subsection (a) for such quarter, such estimates to be based on (A) a report filed by the State containing its estimate of the total sum to be expended in such quarter in accordance with the provisions of such subsection, and stating the amount appropriated or made available by the State and its political subdivisions for such expenditures in such quarter, and if such amount is less than the State's proportionate share of the total sum of such estimated expenditures, the source or sources from which the difference is expected to be derived, and (B) such other investigation as the Secretary may find necessary.

(2) [The] *Subject to subsection (c), the* Secretary shall then pay, in such installments as he may determine, to the State the amount so estimated, reduced or increased to the extent of any overpayment or underpayment which the Secretary determines was made under this section to such State for any prior quarter and with respect to which adjustment has not already been made under this subsection.

(3) Upon the making of any estimate by the Secretary under this subsection, any appropriations available for payments under this section shall be deemed obligated.

(c) Notwithstanding any other provision of law, no amount shall be paid to any State under this section for the quarter commencing April 1, 1978, or for any succeeding quarter, prior to the close of such quarter, unless for the period consisting of all prior quarters for which payment is authorized to be made to such State under subsection (a), there shall have been submitted by the State to the Secretary, with respect to each quarter in such period (other than the last two quarters in such period), a full and complete report (in such form and manner and containing such information as the Secretary shall prescribe or require) as to the amount of child support collected and disbursed and all expenditures with respect to which payment is authorized under subsection (a).

(d)(1) Payment under subsection (a) shall be made with respect to compensation for judges and other support and administrative personnel of the courts who perform services directly related to the child

support program established under the provisions of this part, but only for that portion of such compensation as relates to such services which are clearly identifiable with and directly related to such program.

(2) Payments made as provided in paragraph (1) shall be made only with respect to amounts expended by a State on or after January 1, 1978, and only for amounts expended in a calendar year which exceed the amount expended by such State for such purposes in the twelve-month period beginning July 1, 1976.

(3) Payments made to any State with respect to compensation as provided in paragraph (1) may be made by such State directly to the courts if such State so provides.

Support Obligations

Sec. 456. (a) The support rights assigned to the State under section 102(a)(26) shall constitute an obligation owed to such State by the individual responsible for providing such support. Such obligation shall be deemed for collection purposes to be collectible under all applicable State and local processes.

(1) The amount of such obligation shall be—

(A) the amount specified in a court order which covers the assigned support rights, or

(B) if there is no court order, an amount determined by the State in accordance with a formula approved by the Secretary, and

(2) Any amounts collected from an absent parent under the plan shall reduce, dollar for dollar, the amount of his obligation under paragraphs (1) (A) and (B).

(b) A debt which is a child support obligation assigned to a State under section 402(a)(26) is not released by a discharge in bankruptcy under the Bankruptcy Act.

Distribution of Proceeds

Sec. 457. (a) The amounts collected as child support by a State pursuant to a plan approved under this part during the 15 months beginning July 1, 1975, shall be distributed as follows:

(1) 40 per centum of the first $50 of such amounts as are collected periodically which represent monthly support payments shall be paid to the family without any decrease in the amount paid as assistance to such family during such month;

(2) such amounts as are collected periodically which are in excess of any amount paid to the family under paragraph (1) which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(3) such amounts as are in excess of amounts retained by the State under paragraph (2) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(4) such amounts as are in excess of amounts required to be distributed under paragraphs (1), (2), and (3) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(b) The amounts collected as child support by a State pursuant to a plan approved under this part during any fiscal year beginning after September 30, 1976, shall be distributed as follows:

(1) such amounts as are collected periodically which represent monthly support payments shall be retained by the State to reimburse it for assistance payments to the family during such period (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing);

(2) such amounts as are in excess of amounts retained by the State under paragraph (1) and are not in excess of the amount required to be paid during such period to the family by a court order shall be paid to the family; and

(3) such amounts as are in excess of amounts required to be distributed under paragraphs (1) and (2) shall be (A) retained by the State (with appropriate reimbursement of the Federal Government to the extent of its participation in the financing) as reimbursement for any past assistance payments made to the family for which the State has not been reimbursed or (B) if no assistance payments have been made by the State which have not been repaid, such amounts shall be paid to the family.

(c) Whenever a family for whom child support payments have been collected and distributed under the plan ceases to receive assistance under part A of this title, the State may—

(1) continue to collect [such support payments] *amounts of child support payments which represent monthly support payments* from the absent parent for a period of not to exceed three months from the month following the month in which such family ceased to receive assistance under part A of this title, and pay all amounts so collected *which represents monthly support payments*, to the family; and

(2) at the end of such three-month period, if the State is authorized to do so by the individual on whose behalf the collection will be made, continue to collect [such support payments] *amounts of child support payments which represent monthly support payments* from the absent parent and pay the net amount of any amount so collected *which represents monthly support payments* to the family after deducting any costs incurred in making the collection from the amount of any recovery made[.], *and so much of any amounts of child support so collected as are in excess of the payments required to be made in paragraph (1) shall be distributed in the manner provided by subsection (b)(3) (A) and (B) with respect to excess amounts described in subsection (b).*

Incentive Payment to Localities

Sec. 458. (a) When a political subdivision of a State makes, for the State of which it is a political subdivision, or one State makes, for another State, the enforcement and collection of the support rights assigned under section 402(a)(26) (either within or outside of such State), there shall be paid to such political subdivision or such other State from amounts which would otherwise represent the Federal share of assistance to the family of the absent parent an amount equal to 15 per centum of any amount collected and required to be distributed as provided in section 457 to reduce or repay assistance payments.

(b) Where more than one jurisdiction is involved in such enforcement or collection, the amount of the incentive payment determined under subsection (a) shall be allocated among the jurisdictions in a manner to be prescribed by the Secretary.

Consent by the United States to Garnishment and Similar Proceedings for Enforcement of Child Support and Alimony Obligations

Sec. 459. (a) Notwithstanding any other provision of law, effective January 1, 1975, moneys (the entitlement to which is based upon remuneration for employment) due from, or payable by, the United States or the District of Columbia (including any agency, subdivision, or instrumentality thereof) to any individual, including members of the armed services, shall be subject, in like manner and to the same extent as if the United States or the District of Columbia were a private person, to legal process brought for the enforcement, against such individual of his legal obligations to provide child support or make alimony payment.

(b) Service of legal process brought for the enforcement of an individual's obligation to provide child support or make alimony payments shall be accomplished by certified or registered mail, return receipt requested, or by personal service, upon the appropriate agent designated for receipt of such service of process pursuant to regulations promulgated pursuant to section 461 (or, if no agent has been designated for the governmental entity having payment responsibility for the moneys involved, then upon the head of such governmental entity). Such process shall be accompanied by sufficient data to permit prompt identification of the individual and the moneys involved.

(c) No Federal employee whose duties include responding to interrogatories pursuant to requirements imposed by section 461(b)(3) shall be subject under any law to any disciplinary action or civil or criminal liability or penalty for, or on account of, any disclosure of information made by him in connection with the carrying out of any of his duties which pertain (directly or indirectly) to the answering of any such interrogatory.

(d) Whenever any person, who is designated by law or regulation to accept service of process to which the United States is subject under this section, is effectively served with any such process or with interrogatories relating to an individual's child support or alimony payment obligations, such person shall respond thereto within

thirty days (or within such longer period as may be prescribed by applicable State law) after the date effective service thereof is made, and shall, as soon as possible but not later than fifteen days after the date effective service is so made of any such process, send written notice that such process has been so served (together with a copy thereof) to the individual whose moneys are affected thereby at his duty station or last-known home address.

(e) Governmental entities affected by legal processes served for the enforcement of an individual's child support or alimony payment obligations shall not be required to vary their normal pay and disbursement cycles in order to comply with any such legal process.

(f) Neither the United States, any disbursing officer, nor governmental entity shall be liable with respect to any payment made from moneys due or payable from the United States to any individual pursuant to legal process regular on its face, if such payment is made in accordance with this section and the regulations issued to carry out this section.

Civil Actions To Enforce Child Support Obligations

Sec. 460. The district courts of the United States shall have jurisdiction, without regard to any amount in controversy, to hear and determine any civil action certified by the Secretary of Health, Education, and Welfare under section 452(a)(8) of this Act. A civil action under this section may be brought in any judicial district in which the claim arose, the plaintiff resides, or the defendant resides.

Regulations Pertaining to Garnishments

Sec. 461. (a) Authority to promulgate regulations for the implementation of the provisions of section 459 shall, insofar as the provisions of such section are applicable to moneys due from (or payable by)—

(1) the executive branch of the Government (including in such branch, for the purposes of this subsection, the territories and possessions of the United States, the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, and the government of the District of Columbia), be vested in the President (or his designee),

(2) the legislative branch of the Government, be vested jointly in the President pro tempore of the Senate and the Speaker of the House of Representatives (or their designees), and

(3) the judicial branch of the Government, be vested in the Chief Justice of the United States (or his designee).

(b) Regulations promulgated pursuant to this section shall—

(1) in the case of those promulgated by the executive branch of the Government, include a requirement that the head of each agency thereof shall cause to be published, in the appendix of the regulations so promulgated, (A) his designation of an agent or agents to accept service of process, identified by title of position, mailing address, and telephone number, and (B) an indication of the data reasonably required in order for the agency promptly

to identify the individual with respect to whose moneys the legal process is brought,

(2) in the case of regulations promulgated for the legislative and judicial branches of the Government set forth, in the appendix to the regulations so promulgated, (A) the name, position, address, and telephone number of the agent or agents who have been designated for service of process, and (B) an indication of the data reasonably required in order for such entity promptly to identify the individual with respect to whose moneys the legal process is brought, and

(3) provide that (A) in the case of regulations promulgated by the executive branch of the Government, each head of a governmental entity (or his designee) shall respond to relevant interrogatories, if authorized by the law of the State in which legal process will issue, prior to formal issuance of such process, upon a showing of the applicant's entitlement to child support or alimony payments, and (B) in the case of regulations promulgated for the legislative and judicial branches of the Government, the person or persons designated as agents for service of process in accordance with paragraph (2) shall respond to relevant interrogatories if authorized by the law of the State in which legal process will issue, prior to formal issuance of legal process, upon a showing of the applicant's entitlement to child support or alimony payments.

(c) In the event that a governmental entity, which is authorized under this section or regulations issued to carry out this section to accept service of process, pursuant to the provisions of subsection (a), is served with more than one legal process with respect to the same moneys due or payable to any individual, then such moneys shall be available to satisfy such processes on a first-come, first-served basis, with any such process being satisfied out of such moneys as remain after the satisfaction of all such processes which have been previously served.

Definitions

Sec. 462. For purposes of section 459—

(a) The term "United States" means the Federal Government of the United States, consisting of the legislative branch, the judicial branch, and the executive branch thereof, and each and every department, agency, or instrumentality of any such branch, including the United States Postal Service, the Postal Rate Commission, any wholly owned Federal corporation created by an Act of Congress, any office, commission, bureau, or other administrative subdivision or creature thereof, and the governments of the territories and possessions of the United States.

(b) The term "child support", when used in reference to the legal obligations of an individual to provide such support, means periodic payments of funds for the support and maintenance of a child or children with respect to which such individual has such an obligation, and (subject to and in accordance with State law) includes but is not limited to, payments to provide for health care, education, recreation, clothing, or to meet other specific needs of such a child or children; such term also includes attorney's fees, interest, and court costs, when

and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction.

(c) The term "alimony", when used in reference to the legal obligations of an individual to provide the same, means periodic payments of funds for the support and maintenance of the spouse (or former spouse) of such individual, and (subject to and in accordance with State law) includes but is not limited to, separate maintenance, alimony pendente lite, maintenance, and spousal support; such term also includes attorney's fees, interest, and court costs when and to the extent that the same are expressly made recoverable as such pursuant to a decree, order, or judgment issued in accordance with applicable State law by a court of competent jurisdiction. Such term does not include any payment or transfer of property or its value by an individual to his spouse or former spouse in compliance with any community property settlement, equitable distribution of property, or other division of property between spouses or former spouses.

(d) The term "private person" means a person who does not have sovereign or other special immunity or privilege which causes such person not to be subject to legal process.

(e) The term "legal process" means any writ, order, summons, or other similar process in the nature of garnishment, which—

(1) is issued by (A) a court of competent jurisdiction within any State, territory, or possession of the United States, (B) a court of competent jurisdiction in any foreign country with which the United States has entered into an agreement which requires the United States to honor such process, or (C) an authorized official pursuant to an order of such a court of competent jurisdiction or pursuant to State or local law, and

(2) is directed to, and the purpose of which is to compel, a governmental entity, which holds moneys which are otherwise payable to an individual, to make a payment from such moneys to another party in order to satisfy a legal obligation of such individual to provide child support or make alimony payments.

(f) Entitlement of an individual to any money shall be deemed to be "based upon remuneration for employment" if such money consists of—

(1) compensation paid or payable for personal services of such individual, whether such compensation is denominated as wages, salary, commission, bonus, pay, or otherwise, and includes but is not limited to, severance pay, sick pay, and incentive pay, but does not include awards for making suggestions, or

(2) periodic benefits (including a periodic benefit as defined in section 228(h)(3) of this Act) or other payments to such individual under the insurance system established by title II of this Act or any other system or fund established by the United States (as defined in subsection (a)) which provides for the payment of pensions, retirement or retired pay, annuities, dependents or survivors' benefits, or similar amounts payable on account of personal services performed by himself or any other individual (not including any payment as compensation for death under any Federal program, any payment under any Federal program established to provide "black lung" benefits, any payment by the Veterans'

Administration as pension, or any payments by the Veterans' Administration as compensation for a service-connected disability or death, except any compensation paid by the Veterans' Administration to a former member of the Armed Forces who is in receipt of retired or retainer pay if such former member has waived a portion of his retired pay in order to receive such compensation), and does not consist of amounts paid, by way of reimbursement or otherwise, to such individual by his employer to defray expenses incurred by such individual in carrying out duties associated with his employment.

(g) In determining the amount of any moneys due from, or payable by, the United States to any individual, there shall be excluded amounts which—

(1) are owed by such individual to the United States,

(2) are required by law to be, and are, deducted from the remuneration or other payment involved, including but not limited to, Federal employment taxes, and fines and forfeitures ordered by court-martial,

(3) are properly withheld for Federal, State, or local income tax purposes, if the withholding of such amounts is authorized or required by law and if amounts withheld are not greater than would be the case if such individual claimed all dependents to which he was entitled (the withholding of additional amounts pursuant to section 3402(i) of the Internal Revenue Code of 1954 may be permitted only when such individual presents evidence of a tax obligation which supports the additional withholding).

(4) are deducted as health insurance premiums.

(5) are deducted as normal retirement contributions (not including amounts deducted for supplementary coverage), or

(6) are deducted as normal life insurance premiums from salary or other remuneration for employment (not including amounts deducted for supplementary coverage).

Part E—Federal Payments for Adoption Assistance and Foster Care

State Plan for Adoption Assistance and Foster Care

Sec. 470. *(a) In order for a State to be eligible for payments under this part, it shall have a plan approved by the Secretary which provides—*

(1) that the State agency responsible for administering the program authorized by part B of this title shall administer the program authorized by this part;

(2) that the plan shall be in effect in all political subdivisions of the State, and, if administered by them, be mandatory upon them;

(3) that the State shall assure that the programs at the local level assisted under this part will be coordinated with the programs at the State or local level assisted under parts A and B of this title, under title XX of this Act, or under any other appropriate provision of Federal law;

(4) that the State will, in the administration of its programs under this part, use such methods relating to the establishment and maintenance of personnel standards on a merit basis as are found by the Secretary to be necessary for the proper and efficient operation of the programs, except that the Secretary shall exercise no authority with respect to the selection, tenure of office, or compensation of any individual employed in accordance with such methods;

(5) that the State agency referred to in paragraph (1) (hereinafter in this part referred to as the "State agency") will make such reports, in such form and containing such information as the Secretary may from time to time require, and comply with such provisions as the Secretary may from time to time find necessary to assure the correctness and verification of such reports;

(6) that the State agency will monitor and conduct periodic evaluations of activities carried out under this part;

(7) safeguards which restrict the use of or disclosure of information concerning individuals assisted under the State plan to purposes directly connected with (A) the administration of the plan of the State approved under this part, the plan or program of the State under part A, B, C, or D of this title or under title I, V, X, XIV, XVI (as in effect in Puerto Rico, Guam, the Virgin Islands, and the Commonwealth of the Northern Mariana Islands), XIX, XX, or the supplemental security income program established by title XVI, (B) any investigation, prosecution, or criminal or civil proceeding, conducted in connection with the administration of any such plan or program, (C) the administration of any other Federal or federally assisted program which provides assistance, in cash or in kind, or services, directly to individuals on the basis of need, and (D) any audit or similar activity conducted in connection with the administration of any such plan or program by any governmental agent which is authorized by law to conduct such audit or activity; and the safeguards so provided shall prohibit disclosure, to any committee or a legislative body (other than the Committee on Finance of the Senate, the Committee on Ways and Means of the House of Representatives, and any agency referred to in clause (D) with respect to an activity referred to in such clause), of any information which identifies by name or address any such applicant or recipient; except that nothing contained herein shall preclude a State from providing standards which restrict disclosure to purposes more limited than those specified herein, or which, in the case of adoptions, prevent disclosure entirely;

(8) that where any agency of the State has reason to believe that the home or institution in which a child resides whose care is being paid for in whole or in part with funds provided under this part or part B of this title is unsuitable for the child because of the neglect, abuse, or exploitation of such child, it shall bring such condition to the attention of the appropriate court or law enforcement agency;

(9) that the standards referred to in section 2003(d)(1)(F) shall be applied by the State to any foster family home or child

care institution receiving funds under this part or part B of this title;

(10) for periodic review of the standards referred to in the preceding paragraph and amounts paid as foster care maintenance payments and adoption assistance payments to assure their continuing appropriateness;

(11) that any individual who is denied a request for benefits available pursuant to this part or part B of this title (or whose request for benefits is not acted upon within a reasonable time) will be informed of the reasons for the denial or delay and, if he so requests, will be offered an opportunity to meet with a representative of the agency administering the plan to discuss the reasons for the denial or delay; and

(12) that the State shall arrange for a periodic and independently conducted audit of the programs assisted under this part and part B of this title, which shall be conducted no less frequently than once every three years.

(b) The Secretary shall approve any plan which complies with the provisions of subsection (a) of this section. However, in any case in which the Secretary finds, after reasonable notice and opportunity for a hearing, that a State plan which has been approved by the Secretary no longer complies with the provisions of subsection (a), or that in the administration of the plan there is a substantial failure to comply with the provisions of the plan, the Secretary shall notify the State that further payments will not be made to the State under this part, or that such payments will be made to the State but reduced by an amount which the Secretary determines appropriate, until the Secretary is satisfied that there is no longer any such failure to comply, and until he is so satisfied he shall make no further payments to the State, or shall reduce such payments by the amount specified in his notification to the State.

Foster Care Maintenance Payments Program

Sec. 471. *(a) Each State with a plan approved under this part may make foster care maintenance payments (as defined in section 475(5)) under this part only with respect to a child who would meet the requirements of section 406(a) or of section 407 of this Act but for his removed from the home of a relative (specified in section 406(a)) if—*

(1) the removal from the home was (A) the result of a judicial determination to the effect that continuation therein would be contrary to the welfare of such child;

(2) such child's placement and care are the responsibility of (A) the State agency administering the State plan approved under section 470, or (B) any other public agency with whom the State agency administering or supervising the administration of the State plan approved under section 470 has made an agreement which is still in effect;

(3) such child has been placed in a foster family home or child-care institution as a result of such determination;

(4) such child—

(A) received aid under the State plan approved under section 402 in or for the month in which court proceedings

leading to the removal of such child from the home was initiated, or

(B) (i) would have received such aid in or for such month if application had been made therefor, or (ii) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made; and

(5) there is a case plan (as defined in section 475(1) of this part) for such child (including periodic review of the necessity for the child's being in a foster family home or child-care institution).

(b) Foster care maintenance payments may be made under this part only in behalf of a child described in subsection (a) of this section—

(1) in the foster family home of any individual, whether the payments therefor are made to such individual or to a public or nonprofit private child-placement or child-care agency, or

(2) in a child-care institution, whether the payments therefor are made to such institution or to a public or nonprofit private child-placement or child-care agency, which payments shall be limited so as to include in such payments only those items which are included in the term "foster care maintenance payment" (as defined in section 475(4)).

(c) For the purposes of this part and part B of this title, (1) the term "foster family home" means a foster family home for children which is licensed by the State in which it is situated or has been approved, by the agency of such State having responsibility for licensing homes of this type, as meeting the standards established for such licensing; and (2) the term "child-care institution" means a nonprofit private child-care institution, or (subject to the succeeding sentence) a public child-care institution which accommodates no more than twenty-five children, which is licensed by the State in which it is situated or has been approved, by the agency of such State responsible for licensing or approval of institutions of this type, as meeting the standards established for such licensing; but the term shall not include detention facilities, forestry camps, training schools, or any other facility operated primarily for the detention of children who are determined to be delinquent. A public institution which on the effective date of this part accommodates children and which, except for the provisions of this sentence would be a child-care institution (as defined in the preceding sentence), shall not, for purposes of this part, be considered to be a child-care institution (as so defined) with respect to any child who was in such institution on the date of enactment of the Public Assistance Amendments of 1977.

(d) For purposes of title XIX of this Act, any child with respect to whom foster care maintenance payments are made under this section shall be deemed to be a dependent child as defined in section 406 and shall be deemed to be a recipient of aid to families with dependent children under part A of this title.

Adoption Assistance Program

Sec. 472. *(a)(1) Each State with a plan approved under this part may, directly or through another public or nonprofit agency, make adoption assistance payments pursuant to an adoption assistance agreement in amounts determined under paragraph (3) of this subsection to parents who are eligible for such payments pursuant to paragraph (2) of this subsection and who, after the effective date of this section, adopt a child who—*

(A) would meet the requirements of section 406(a) or section 407 of this Act except for his removal from the home of a relative (specified in section 406(a)) as a result of a judicial determination to the effect that continuation there would be contrary to the welfare of such child,

(B)(i) received aid under the State plan approved under section 402 in or for the month in which court proceedings leading to the removal of such child from the home was initiated, or

(ii)(I) would have received such aid in or for such month if application had been made therefor, or (II) had been living with a relative specified in section 406(a) within six months prior to the month in which such proceedings were initiated, and would have received such aid in or for such month if in such month he had been living with such a relative and application therefor had been made, and

(C) the State has determined, pursuant to subsection (c) of this section, is a child with special needs.

(2) Parents may be eligible for adoption assistance payments under this part only if their income at the time of the adoption does not exceed 115 per centum of the median income of a family of four in the State, adjusted in accordance with regulations of the Secretary to take into account the size of the family after adoption. Notwithstanding the preceding sentence, parents whose income is above the limit specified therein may be eligible for assistance payments under this part if the State or local agency administering the program under this section determines that there are special circumstances (as defined in regulations of the Secretary) in the family which warrant adoption assistance payments.

(3) The amount of the adoption assistance payments shall be determined through agreement between the adoptive parent (or parents) and the State or local agency administering the program under this section, which shall take into consideration the circumstances of the adopting parents and the needs of the child being adopted, and may be readjusted periodically, with the concurrence of the adopting parents (which may be specified in the adoption assistance agreement), depending upon changes in such circumstances. However, in no case may the amount of the adoption assistance payment exceed the foster care maintenance payment which would have been paid during the period if the child with respect to whom the adoption assistance payment is made had been in a foster family home.

(4) Notwithstanding the preceding two paragraphs, (A) no payment may be made to parents pursuant to this section with respect to

any month in a calendar year following a calendar year in which the income of such parents exceeds the limits specified in paragraph (2), unless the State or local agency administering the program under this section has determined, pursuant to paragraph (2), that there are special circumstances in the family which warrant adoption assistance payments, (B) no payment may be made to parents with respect to any child who has attained the age of eighteen, and (C) no payment may be made to parents with respect to any child if the State determines that the parents are no longer legally responsible for the support of the child or if the State determines that the child is no longer receiving any support from such parents. Parents who have been receiving adoption assistance payments under this section shall keep the State or local agency administering the program under this section informed of circumstances which would, pursuant to this subsection, make them ineligible for such assistance payments, or eligible for assistance payments in a different amount.

(5) For the purposes of this part, individuals with whom a child (who the State determines, pursuant to subsection (c), is a child with special needs) is placed for adoption, pursuant to an interlocutory decree, shall be eligible for adoption assistance payments under this subsection, during the period of the placement, on the same terms and subject to the same conditions as if such individuals had adopted such child.

(b) Any child—

(1) who the State determines, meets the requirements of subsection (a); and

(2) who is placed for adoption or adopted following such determination

shall, with respect to any medical condition which was in existence at the time the child was adopted, retain such eligibility until the age of eighteen under such plan. However, a State may provide to such a child full eligibility for medical assistance under the State plan approved under title XIX.

(c) For purposes of this section, a child shall not be considered a child with special needs unless—

(1) the State has determined that the child cannot or should not be returned to the home of his parents; and

(2) the State has first determined (A) that there exists with respect to the child a specific factor or condition because of which it is reasonable to conclude that such child cannot be placed with adoptive parents without providing adoption assistance, and (B) that, except, where it would be against the best interests of the child because of such factors as the existence of significant emotional ties with prospective adoptive parents while in the care of such parents as a foster child, a reasonable, but unsuccessful, effort has been made to place the child with appropriate adoptive parents without providing adoptive assistance under this section.

(d) Notwithstanding any other provision of this part, no adoption assistance payment under a State plan approved under this part shall be made pursuant to any adoption assistance agreement entered into after September 30, 1982.

Authorization of Appropriations

Sec. 473. *For the purpose of carrying out this part, other than section 476, there are authorized to be appropriated for each fiscal year (commencing with the fiscal year which begins October 1, 1977) such sums as may be necessary.*

Payments to States; Allotments to States

Sec. 474. *(a) For each quarter beginning after September 30, 1977, each State which has a plan approved under this part (subject to the limitations imposed by subsection (b)) shall be entitled to a payment equal to the sum of—*

(1) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as foster care maintenance payments under section 471 for children in foster family homes or child-care institutions; plus

(2) an amount equal to the Federal medical assistance percentage (as defined in section 1905(b) of this Act) of the total amount expended during such quarter as adoption assistance payments under section 472 pursuant to adoption assistance agreements entered into prior to October 1, 1982; plus

(3) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision, and

(B) one-half of the remainder of such expenditures.

(b)(1) Notwithstanding the provisions of subsection (a)(1) and (a)(3) with respect to expenditures relating to foster care, the aggregate of the sums payable to any State thereunder, with respect to expenditures relating to foster care, for the calendar quarters in any fiscal year shall not exceed the State's allotment for such year.

(2) For purposes of this subsection, a State's allotment for the fiscal year ending September 30, 1977, shall be equal to the amount of the Federal funds payable to such State under section 403 on account of expenditures for aid with respect to which Federal financial participation is authorized pursuant to section 408 (including administrative expenditures attributable to the provision of such aid). In the event that there is a dispute between any State and the Secretary as to the amount of such expenditures for such fiscal year, then, until the beginning of the fiscal year immediately following the fiscal year in which the dispute is finally resolved, the amount of the State's allotment for such fiscal year shall be deemed to be the amount of Federal funds which would have been payable under such section 403 if the amount

of such expenditures were equal to the amount thereof claimed by the State.

(3)(A) For the fiscal year 1978, the allotment of each State shall be equal to 120 per centum of its allotments for the preceding year or (if greater) the amount provided under subparagraph (B). For the fiscal years 1979, 1980, 1981, and 1982, the allotment of each State shall be equal to 110 per centum of the amount of its allotment for the preceding fiscal year, or (if greater) the amount provided under subparagraph (B). For the fiscal year 1983 and each fiscal year thereafter, the allotment of each State shall be equal to its allotment for the fiscal year 1982, or (if greater) the amount provided under subparagraph (B).

(B) The amount of any State's allotment, for any fiscal year referred to in subparagraph (A), shall be the amount determined under such paragraph or (if greater) an amount which bears the same ratio to $100,000,000 as the under age 21 population of such State bears to the under age 21 population of the fifty States and the District of Columbia. The Secretary shall promulgate the amount of each State's allotment, for the fiscal year 1978, not later than 30 days after the date of enactment of this part, and for any succeeding fiscal year, prior to the first day of the third month of the preceding fiscal year, on the basis of the most recent satisfactory data available from the Department of Commerce.

(c) For the fiscal year 1978, and each fiscal year thereafter, sums available to a State from its allotment under subsection (b) for carrying out this part, which the State does not claim as reimbursement for expenditures in such year pursuant to subsection (a) of this section, may be claimed by the State as reimbursement for expenditures in such year pursuant to part B of this title, in addition to such sums available pursuant to section 420 for carrying out that part.

Definitions

***Sec. 475.** As used in this part or part B of this title:*

(1) The term "case plan" means a written document which includes at least the following information: a description of the type of home or institution in which a child is to be placed, including a discussion of the appropriateness of the placement and how the agency which is responsible for the child plans to carry out the judicial determination made with respect to the child in accordance with section 471 (a)(1); a plan of services that will be provided to the parents, child, and foster parents in order to improve the conditions in the parents' home, facilitate return of the child to his own home or the permanent placement of the child, and address the needs of the child while in foster care, including a discussion of the appropriateness of the services that have been provided to the child under the plan.

(2) The term "parents" means biological or adoptive parents or legal guardians, as determined by applicable State law.

(3) The term "adoption assistance agreement" means a written and consensual agreement, binding on the parties to the agreement, between the State agency, other relevant agencies, and the prospective adopting parents of a minor which specifies, at a minimum, the amounts of the adoption assistance payments and any additional

services and assistance which are to be provided as part of such agreement.

(4) The term "foster care maintenance payments" means payments to cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child's personal incidentals, liability insurance with respect to a child, and reasonable travel to the child's home for visitation. In the case of institutional care, such term shall include the reasonable costs of administration and operation of such institution as are necessarily required to provide the items described in the preceding sentence.

Technical Assistance; Data Collection and Evaluation

Sec. 476. *(a) The Secretary may provide technical assistance to the States to assist them to develop the programs authorized under this part and shall periodically (1) evaluate the programs authorized under this part and part B of this title and (2) collect and publish data pertaining to the incidence and characteristics of foster care and adoptions in this country.*

(b) Each State shall submit statistical reports as the Secretary may require with respect to children for whom payments are made under this part containing information with respect to such children including legal status, demographic characteristics, location, and length of any stay in foster care.

TITLE X—GRANTS TO STATES FOR AID TO THE BLIND

* * * * * * *

Payments to States

Sec. 1003. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the blind, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the blind for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the blind in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the blind in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the blind for such month; and

(2) in the case of Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during such quarter as aid to the blind under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the blind for such month; and

(3) in the case of any State whose State plan approved under section 1002 meets the requirements of subsection (c)(1) an amount equal to the sum of the following proportions of the total amounts expended during such quarter as found necessary by the Secretary of Health, Education, and Welfare for the proper and efficient administration of the State plan—

(A) 75 per centum of so much of such expenditures as are for—

(i) services which are prescribed pursuant to subsection (c)(1) and are provided (in accordance with the next sentence) to applicants for or recipients of aid to the blind to help them attain or retain capability for self-support or self-care, or

(ii) other services, specified by the Secretary as likely to prevent or reduce dependency, so provided to such applicants or recipients, or

(iii) any of the services prescribed pursuant to subsection (c)(1), and of the services specified as provided in clause (ii), which the Secretary may specify as appropriate for individuals who, within such period or periods as the Secretary may prescribe, have been or are likely to become applicants for or recipients of aid to the blind, if such services are requested by such individuals and are provided to such individuals in accordance with the next sentence, or

(iv) the training (including both short- and long-term training at educational institutions through grants to such institutions or by direct financial assistance to students enrolled in such institutions) of personnel employed or preparing for employment by the State agency or by the local agency administering the plan in the political subdivision; plus

(B) one-half of so much of such expenditures (not included under subparagraph (A)) as are for services provided (in accordance with the next sentence) to applicants for or

recipients of aid to the blind, and to individuals requesting such services who (within such period or periods as the Secretary may prescribe) have been or are likely to become applicants for or recipients of such aid; plus

(C) one-half of the remainder of such expenditures.

The services referred to in subparagraph (A) and (B) shall, except to the extent specified by the Secretary, include only—

(D) services provided by the staff of the State agency, or of the local agency administering the State plan in the political subdivision: *Provided*, That no funds authorized under this title shall be available for services defined as vocational rehabilitation services under the Vocational Rehabilitation Act (i) which are available to individuals in need of them under programs for their rehabilitation carried on under a State plan approved under such Act, or (ii) which the State agency or agencies administering or supervising the administration of the State plan approved under such Act are able and willing to provide if reimbursed for the cost thereof pursuant to agreement under subparagraph (E), if provided by such staff, and

(E) prescribed by the Secretary, under conditions which shall be services which in the judgment of the State agency cannot be as economically or as effectively provided by the staff of such State or local agency and are not otherwise reasonably available to individuals in need of them, and which are provided, pursuant to agreement with the State agency, by the State health authority or the State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services approved under the Vocational Rehabilitation Act or by any other State agency which the Secretary may determine to be appropriate (whether provided by its staff or by contract with public (local) or nonprofit private agencies);

except that services described in clause (ii) of subparagraph (D) hereof may be provided only pursuant to agreement with such State agency or agencies administering or supervising the administration of the State plan for vocational rehabilitation services so approved. The portion of the amount expended for administration of the State plan to which subparagraph (A) applies and the portion thereof to which subparagraphs (B) and (C) apply shall be determined in accordance with such methods and procedures as may be permitted by the Secretary; and

(4) in the case of any State whose State plan approved under section 1002 does not meet the requirements of subsection (c)(1), an amount equal to one-half of the total of the sums expended during such quarter as found necessary by the Secretary for the proper and efficient administration of the State plan, including services referred to in paragraph (3) and provided in accordance with the provisions of such paragraph.

TITLE XI—GENERAL PROVISIONS AND PROFESSIONAL STANDARDS REVIEW

Part A—General Provisions

Definitions

Sec. 1101. (a) When used in this Act—

(1) The term "State", except where otherwise provided, includes the District of Columbia and the Commonwealth of Puerto Rico, and when used in titles IV, V, VII, XI, and XIX includes the Virgin Islands [and] Guam, *and the Commonwealth of the Northern Mariana Islands*. Such term when used in title V also includes American Samoa and the Trust Territory of the Pacific Islands. Such term when used in titles III, IX, and XII also includes the Virgin Islands. In the case of Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, title I, X, and XIV, and title XVI, (as in effect without regard to the amendment made by section 301 of the Social Security Amendments of 1972) shall continue to apply, and the term "States" when used in such titles (but not in title XVI as in effect pursuant to such amendment after December 31, 1973) includes Puerto Rico, the Virgin Islands, and Guam.

(2) The term "United States" when used in a geographical sense means, except when otherwise provided, the States.

(3) The term "person" means an individual, a trust or estate, a partnership, or a corporation.

(4) The term "corporation" includes associations, joint-stock companies, and insurance companies.

(5) The term "shareholder" includes a member in an association, joint-stock company, or insurance company.

(6) The term "Secretary", except when the context otherwise requires, means the Secretary of Health, Education, and Welfare.

(7) The terms "physician" and "medical care" and "hospitalization" include osteopathic practitioners or the services of osteopathic practitioners and hospitals within the scope of their practice as defined by State law.

(8)(A) The "Federal percentage" for any State (other than Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*) shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 50 per centum as the square of the per capita income of such State bears to the square of the per capita income of the United States; except that the Federal percentage shall in no case be less than 50 per centum or more than 65 per centum.

(B) The Federal percentage for each State (other than Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*) shall be promulgated by the Secretary between October 1 and November 30 of each even-numbered year, on

the basis of the average per capita income of each State and of the United States for the three most recent calendar years for which satisfactory data are available from the Department of Commerce. Such promulgation shall be conclusive for each of the eight quarters in the period beginning October 1 next succeeding such promulgation: *Provided*, That the Secretary shall promulgate such percentage as soon as possible after the enactment of the Social Security Amendments of 1958, which promulgation shall be conclusive for each of the eleven quarters in the period beginning October 1, 1958, and ending with the close of June 30, 1961.

* * * * * * *

Limitation on Payments to Puerto Rico, the Virgin Islands, and Guam

Sec. 1108. (a) Except as provided in 2002(a)(2)(D), the total amount certified by the Secretary of Health, Education, and Welfare under title I, X, XIV, and XVI, and under part A of title IV (exclusive of any amounts on account of services and items to which subsection (b) applies)—

(1) for payment to Puerto Rico shall not exceed—
(A) $12,500,000 with respect to the fiscal year 1968,
(B) $15,000,000 with respect to the fiscal year 1969,
(C) $18,000,000 with respect to the fiscal year 1970,
(D) $21,000,000 with respect to the fiscal year 1971, [or]
(E) $24,000,000 with respect to the fiscal year 1972 and each fiscal year thereafter[;] *prior to the fiscal year 1978,*
(F) $48,000,000 with respect to the fiscal year 1978, or
(G) $72,000,000 with respect to the fiscal year 1979 and each fiscal year thereafter;

(2) for payment to the Virgin Islands shall not exceed—
(A) $425,000 with respect to the fiscal year 1968,
(B) $500,000 with respect to the fiscal year 1969,
(C) $600,000 with respect to the fiscal year 1970,
(D) $700,000 with respect to the fiscal year 1971, [or]
(E) $800,000 with respect to the fiscal year 1972 and each fiscal year thereafter[; and] *prior to the fiscal year 1978,*
(F) $1,600,000 with respect to the fiscal year 1978, or
(G) $2,400,000 with respect to the fiscal year 1979 and each fiscal year thereafter; and

(3) for payment to Guam shall not exceed—
(A) $575,000 with respect to the fiscal year 1968,
(B) $690,000 with respect to the fiscal year 1969,
(C) $825,000 with respect to the fiscal year 1970,
(D) $960,000 with respect to the fiscal year 1971, [or]
(E) $1,100,000 with respect to the fiscal year 1972 and each fiscal year thereafter[.] *prior to the fiscal year 1978,*
(F) $2,200,000 with respect to the fiscal year 1978, or
(G) $3,300,000 with respect to the fiscal year 1979 and each fiscal year thereafter.

(b) The total amount certified by the Secretary under part A of title IV, on account of family planning services and services provided under section 402(a)(19) with respect to any fiscal year—

(1) for payment to Puerto Rico shall not exceed $2,000,000,
(2) for payment to the Virgin Islands shall not exceed $65,000, [and]
(3) for payment to Guam shall not exceed $90,000[.], *and*
(4) *for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $15,000.*

(c) The total amount certified by the Secretary under title XIX with respect to any fiscal year—
(1) for payment to Puerto Rico shall not exceed $30,000,000,
(2) for payment to the Virgin Islands shall not exceed $1,000,000, [and]
(3) for payment to Guam shall not exceed $900,000[.], *and*
(4) *for payment to the Commonwealth of the Northern Mariana Islands shall not exceed $160,000.*

(d) Notwithstanding the provisions of section 502(a) and 512(a) of this Act, and the provisions of sections 421, 503(1), and 504(1) of this Act as amended by the Social Security Amendments of 1967, and until such time as the Congress may by appropriation or other law otherwise provide, the Secretary shall, in lieu of the initial allotment specified in such sections, allot such smaller amounts to Guam, American Samoa, *the Commonwealth of the Northern Mariana Islands*, and the Trust Territory of the Pacific Islands as he may deem appropriate.

* * * * * * *

Demonstration Projects

Sec. 1115. (*a*) In the case of any experimental, pilot, or demonstration project which, in the judgment of the Secretary, is likely to assist in promoting the objectives of title I, VI, X, XIV, XVI, XIX, or XX, or part A of title IV, in a State or States—

[(a)] (*1*) the Secretary may waive compliance with any of the requirements of section 2, 402, 602, 1002, 1402, 1602, 1902, 2002, 2003, or 2004, as the case may be, to the extent and for the period he finds necessary to enable such State or States to carry out such project, and

[(b)] (*2*) costs of such project which would not otherwise be included as expenditures under section 3, 403, 603, 1003, 1403, 1603, 1903, or 2002, as the case may be, and which are not included as part of the costs of projects under section 1110, shall, to the extent and for the period prescribed by the Secretary, be regarded as expenditures under the State plan or plans approved under such title, or for administration of such State plan or plans, or expenditures with respect to which payment shall be made under section 2002, as may be appropriate.

In addition, not to exceed $4,000,000 of the aggregate amount appropriated for payments to States under such titles for any fiscal year beginning after June 30, 1967, shall be available, under such terms and conditions as the Secretary may establish, for payments to States to cover so much of the cost of such project as is not covered by payments under such titles and is not included as part of the cost of projects for purposes of section 1110.

(*b*) (*1*) *In order to permit the States to achieve more efficient and effective use of funds for public assistance, to reduce dependency, and to improve the living conditions and increase the incomes of individ-*

uals who are recipients of public assistance, any State having an approved plan under part A of title IV may, subject to the provisions of this subsection, establish and conduct not more than three demonstration projects. In establishing and conducting any such project the State shall—

(A) provide that not more than one such project be conducted on a statewide basis;

(B) provide that in making arrangements for public service employment—

(i) appropriate standards for the health, safety, and other conditions applicable to the performance of work and training on such project are established and will be maintained,

(ii) such project will not result in the displacement of employed workers,

(iii) with respect to such project the conditions of work, training, education, and employment are reasonable in the light of such factors as the type of work, geographical region, and proficiency of the participant, and

(iv) appropriate workmen's compensation protection is provided to all participants;

(C) provide that participation in any such project by any individual receiving aid to families with dependent children be voluntary.

(2) Any State which establishes and conducts demonstration projects under this subsection, may, with respect to any such project—

(A) waive, subject to paragraph (3), any or all of the requirements of sections 402(a)(1) (relating to statewide operation), 402(a)(3) (relating to administration by a single State agency), 402(a)(8) (relating to disregard of earned income), except that no such waiver of 402(a)(8) shall operate to waive any amount in excess of one-half of the earned income of any individual, and 402(a)(19) (relating to the work incentive program);

(B) subject to paragraph (4) use to cover the costs of such projects such funds as are appropriated for payment to any such State with respect to the assistance which is or would, except for participation in a project under this subsection, be payable to individuals participating in such projects under part A of title IV for any fiscal year in which such demonstration projects are conducted; and

(C) use such funds as are appropriated for payments to States under the State and Local Fiscal Assistance Act of 1972 for any fiscal year in which such demonstration projects are conducted to cover so much of the costs of salaries for individuals participating in public service employment as is not covered through the use of funds made available under subparagraph (B).

(3) Notwithstanding the provisions of paragraph (2)(A), the Secretary may review any waiver made by a State under such paragraph. Upon a finding that any such waiver is inconsistent with the purposes of this subsection and the purposes of part A of title IV, the Secretary may disapprove such waiver. The demonstration project under which any such disapproved waiver was made by such State shall be terminated not later than the last day of the month following the month in which such waiver was disapproved.

(4) Any amount payable to a State under section 403(a) on behalf of an individual participating in a project under this section shall not be increased by reason of the participation of such individual in any demonstration project conducted under this subsection over the amount which would be payable if such individual were receiving aid to families with dependent children and not participating in such project.

(5) Participation in a project established under this section shall not be considered to constitute employment for purposes of any finding with respect to "unemployment" as that term is used in section 407.

(6) Any demonstration project established and conducted pursuant to the provisions of this subsection shall be conducted for not longer than two years. All demonstration projects established and conducted pursuant to the provisions of this subsection shall be terminated not later than September 30, 1980.

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Alternative Federal Payment With Respect to Public Assistance Expenditures

Sec. 1118. In the case of any State which has in effect a plan approved under title XIX for any calendar quarter, the total of the payments to which such State is entitled for such quarter, and for each succeeding quarter in the same fiscal year (which for purposes of this section means the 4 calendar quarters ending with September 30), under paragraphs (1) and (2) of sections 3(a), 403(a), 1003(a), 1403(a), and 1603(a) shall, at the option of the State, be determined by application of the Federal medical assistance percentage (as defined by section 1905), instead of the percentages provided under each such section, to the expenditures under its State plans approved under titles I, X, XIV, and XVI, and Part A of title IV, which would be included in determining the amounts of the Federal payments to which such State is entitled under such sections, but without regard to any maximum on the dollar amounts per recipient which may be counted under such sections. *For purposes of the preceding sentence, the term "Federal medical assistance percentage" shall, in the case of Puerto Rico, the Virgin Islands, Guam, and the Commonwealth of the Northern Mariana Islands, mean 75 per centum when applied to quarters in fiscal years which commence after September 30, 1977.*

* * * * * * *

Treatment of Certain Overpayments Under Supplemental Security Income Program

***Sec. 1132.** Whenever any individual—*

(1) fails to receive any (or the full amount) of the payment or payments payable to him, during any period, by reason of his entitlement to a monthly insurance benefit under title II, and

(2) receives supplemental security income benefits under title XVI (or supplementary payments made by the Secretary under an agreement entered into under section 1616 or an administration agreement entered into under section 212(b) of Public Law

93–66) during such period in an amount which is in excess of the amount which would have been payable to him if timely payment had been made, during such period, of the full amount of the monthly insurance benefits referred to in paragraph (1), then, the amount of such excess shall be deemed to have been an advance payment of such individual's monthly insurance benefit payable during such period under title II. When such individual's entitlement to benefits under title II for the period referred to in paragraphs (1) and (2) has been determined, an amount equal to the amount deemed under this section to have been advanced to him shall be paid, from the appropriate social security trust fund into the general fund of the Treasury or to the State responsible for payments to such individual under section 1616 or under section 212 of Public Law 93–66.

Compilation of Fraud Data by Inspector General

***Sec. 1133.** The Inspector General of the Department of Health, Education, and Welfare shall compile statistical data relating to charges of fraud under the aid to families with dependent children program and the supplemental security income program and shall make such data available to the Secretary and to the Congress. Such data shall be compiled so as to show, with regard to each program—*

(1) the number of cases of alleged fraud, and the dollar amounts involved, which are under active investigation or awaiting investigation;

(2) the number of cases of alleged fraud which were settled or decided by administrative action, including the type of administrative action involved, any penalties applied, and any repayments made in such cases;

(3) the number of cases of alleged fraud which were referred for possible criminal prosecution, including the number of cases being actively prosecuted, the number awaiting prosecution, the number dismissed for insufficient evidence, and the number settled after referral for prosecution but prior to any final verdict of guilt or innocence (including any penalties applied and repayments made in such cases);

(4) the number of such cases which were adjudicated with a final verdict of not guilty; and

(5) the number of such cases which were adjudicated with a final verdict of guilty, including any penalties applied and repayments made in such cases.

Definition of Public Charge

***Sec. 1134.** Any individual who receives cash benefits under the supplemental security income program established by title XVI, under the programs established by titles I, X, XIV, XVI, or part A of title IV, or under any other State or Federal public assistance program which is based on need shall, for purposes of the Immigration and Nationality Act, be considered to be a "public charge" without regard to whether such alien is liable to repay such benefits or whether any demand is made for repayment.*

TITLE XIV—GRANTS TO STATES FOR AID TO THE PERMANENTLY AND TOTALLY DISABLED

* * * * * * *

Payments to States

Sec. 1403. (a) From the sums appropriated therefor, the Secretary of the Treasury shall pay to each State which has an approved plan for aid to the permanently and totally disabled, for each quarter, beginning with the quarter commencing October 1, 1958—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{31}/_{37}$ of such expenditures, not counting so much of any expenditure with respect to any month as exceeds the product of $37 multiplied by the total number of recipients of aid to the permanently and totally disabled for such month (which total number, for purposes of this subsection, means (i) the number of individuals who received aid to the permanently and totally disabled in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the permanently and totally disabled in the form of medical or any other type of remedial care); plus

(B) the Federal percentage of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds the product of $75 multiplied by the total number of such recipients of aid to the permanently and totally disabled for such month; and

(2) in the case of Puerto Rico, and Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to one-half of the total of the sums expended during such quarter as aid to the permanently and totally disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the permanently and totally disabled for such months; and

TITLE XVI—GRANTS TO STATES FOR AID TO THE AGED, BLIND, OR DISABLED, OR FOR SUCH AID AND MEDICAL ASSISTANCE FOR THE AGED.

* * * * * * *

Payments to States

Sec. 1603. (a) From the sums appropriated therefor, the Secretary shall pay to each State which has a plan approved under this title, for each quarter, beginning with the quarter commencing October 1, 1962—

(1) in the case of any State other than Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to the sum of the following proportions of the total amounts expended during each month of such quarters to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof)—

(A) $^{3}1/_{37}$ of such expenditures, not counting so much of any expenditure with respect to such month as exceeds the product of $37 multiplied by the total number of recipients of such aid for such month (which total number, for purposes of this subsection means (i) the number of individuals who received such aid in the form of money payments for such month, plus (ii) the number of other individuals with respect to whom expenditures were made in such month as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care) : plus

(B) the larger of the following:

(i) (I) the Federal percentage (as defined in section 1101(a)(8)) of the amount by which such expenditures exceed the amount which may be counted under clause (A), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month, plus (II) 15 per centum of the total expended during such month as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of such expenditure with respect to such month as exceeds the product of $15 multiplied by the tital number of recipients of aid to the aged, blind, or disabled for such month, or

(ii) (I) the Federal medical percentage (as defined in section 6(c)) of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with re-

spect to such month as exceeds (a) the product of $52 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (b) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37 multiplied by such total number of such recipients plus (II) the Federal percentage of the amount by which the total expended during such month as aid to the aged, blind, or disabled under the State plan exceeds the amount which may be counted under clause (A) and the preceding provisions of this clause (B)(ii), not counting so much of such excess with respect to such month as exceeds the product of $38 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

(2) in the case of Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, an amount equal to—

(A) one-half of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan (including expenditures for premiums under part B of title XVIII for individuals who are recipients of money payments under such plan and other insurance premiums for medical or any other type of remedial care or the cost thereof), not counting so much of any expenditure with respect to any month as exceeds $37.50 multiplied by the total number of recipients of aid to the aged, blind, or disabled for such month; plus

(B) the larger of the following amounts: (i) one-half of the amount by which such expenditures exceed the maximum which may be counted under clause (A), not counting so much of any expenditure with respect to any month as exceeds (I) the product of $45 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month, or (II) if smaller, the total expended as aid to the aged, blind, or disabled in the form of medical or any other type of remedial care with respect to such month plus the product of $37.50 multiplied by the total number of such recipients, or (ii) 15 per centum of the total of the sums expended during such quarter as aid to the aged, blind, or disabled under the State plan in the form of medical or any other type of remedial care, not counting so much of any expenditure with respect to any month as exceeds the product of $7.50 multiplied by the total number of such recipients of aid to the aged, blind, or disabled for such month;

TITLE XVI—SUPPLEMENTAL SECURITY INCOME FOR THE AGED, BLIND, AND DISABLED

* * * * * * *

Part A—Determination of Benefits
Eligibility for and Amount of Benefits

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Sec. 1611. (a) * * *

Limitation on Eligibility of Certain Individuals

(e)(1)(A) Except as provided in subparagraph (B) and (C), no person shall be an eligible individual or eligible spouse for purposes of this title with respect to any month if throughout such month he is an inmate of a public institution.

(B) In any case where an eligible individual or his eligible spouse (if any) is, throughout any month, in a hospital, extended care facility, nursing home, or intermediate care facility receiving payments (with respect to such individual or spouse) under a State plan approved under title XIX, the benefit under this title for such individual for such month shall be payable—

(i) at a rate not in excess of [$300] *$360* per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who does not have an eligible spouse;

(ii) in the case of an individual who has an eligible spouse, if only one of them is in such a hospital, home or facility throughout such month, at a rate not in excess of the sum of—

(I) the rate of [$300] *$360* per year (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the one who is in such hospital, home, or facility), and

(II) the applicable rate specified in subsection (b)(1) (reduced by the amount of any income, not excluded pursuant to section 1612(b), of the other); and

(iii) at a rate not in excess of [$600] *$720* per year (reduced by the amount of any income not excluded pursuant to section 1612(b)) in the case of an individual who has an eligible spouse, if both of them are in such a hospital, home, or facility throughout such month.

(C) As used in subparagraph (A), the term "public institution" does not include a publicly operated community residence which serves no more than 16 residents.

(2) No person shall be an eligible individual or eligible spouse for purposes of this title if, after notice to such person by the Secretary that it is likely that such person is eligible for any payments of the type enumerated in section 1612(a)(2)(B), such person fails within 30 days to take all appropriate steps to apply for and (if eligible) obtain any such payments.

(3)(A) No person who is an aged, blind, or disabled individual solely by reason of disability (as determined under section 1614(a)(3)) shall be an eligible individual or eligible spouse for purposes of

this title with respect to any month if such individual is medically determined to be a drug addict or an alcoholic unless such individual is undergoing any treatment that may be appropriate for his condition as a drug addict or alcoholic (as the case may be) at an institution or facility approved for purposes of this paragraph by the Secretary (so long as such treatment is available) and demonstrates that he is complying with the terms, conditions, and requirements of such treatment and with requirements imposed by the Secretary under subparagraph (B).

(B) The Secretary shall provide for the monitoring and testing of all individuals who are receiving benefits under this title and who as a condition of such benefits are required to be undergoing treatment and complying with the terms, conditions, and requirements thereof as described in subparagraph (A), in order to assure such compliance and to determine the extent to which the imposition of such requirement is contributing to the achievement of the purposes of this title. The Secretary shall annually submit to the Congress a full and complete report on his activities under this paragraph.

* * * * * * *

Income

Meaning of Income

Sec. 1612. (a) For purposes of this title, income means both earned income and unearned income; and—

(1) earned income means only—

(A) wages as determined under section 203(f)(5)(C); [and]

(B) net earnings from self-employment, as defined in section 211 (without the application of the second and third sentences following subsection (a)(10), and the last paragraph of subsection (a)), including earnings for services described in paragraphs (4), (5), and (6) of subsection (c); and

(C) remuneration received for services performed in a sheltered workshop or work activities center; and

[(2) unearned income means all other income, including—

[(A) support and maintenance furnished in cash or kind; except that (i) in the case of any individual (and his eligible spouse, if any) living in another person's household and receiving support and maintenance in kind from such person, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33⅓ percent in lieu of including such support and maintenance in the unearned income of such individual (and spouse) as otherwise required by this subparagraph,]

(2) unearned income means all other income which is in the form of cash or its equivalent or, to the extent provided in subparagraph (A), which is provided in kind, and which is available for the support and maintenance of any individual (and his eligible spouse, if any), including—

(*A*) *support and maintenance furnished in kind in the form of regular contributions for food or shelter needs (or both); except that (i) in the case of any individual (and his eligible spouse, if any) who receives such regular in-kind contributions, the dollar amounts otherwise applicable to such individual (and spouse) as specified in subsections (a) and (b) of section 1611 shall be reduced by 33⅓ percent, in lieu of considering such contributions as income unless and until such individual establishes to the satisfaction of the Secretary that the actual value of such in-kind contributions is less than the amount of the reduction otherwise required, in which case the actual value of such in-kind contributions shall be considered to be income under this paragraph*, (ii) in the case of any individual or his eligible spouse who resides in a nonprofit retirement home or similar nonprofit institution, support and maintenance shall not be included *and clause (i) shall not be applicable with regard to support and maintenance* to the extent that it is furnished to such individual or such spouse without such institution receiving payment therefor (unless such institution has expressly undertaken an obligation to furnish full support and maintenance to such individual or spouse without any current or future payment therefor) or payment therefore is made by another nonprofit organization, and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the seventeenth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclause (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief Act of 1974, and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe;

(B) any payments received as an annuity, pension, retirement, or disability benefit, including veterans' compensation

and pensions, workmen's compensation payments, old-age, survivors, and disability insurance benefits, railroad retirement annuities and pensions, and unemployment insurance benefits;

(C) prizes and awards;

(D) the proceeds of any life insurance policy to the extent that they exceed the amount expended by the beneficiary for purposes of the insured individual's last illness and burial or $1,500, whichever is less;

(E) gifts [(cash or otherwise)] (*in cash or in the form of regular contributions for food or shelter needs*), support and alimony payments, and inheritances; [and]

(F) rents, dividends, interest, and royalties[.]*; and*

(G) funds which were a part of the assets described in section 1613(a)(7)(B) which were excluded as resources under such section, if such funds are used for any purpose other than paying the burial needs of the individual (or his eligible spouse).

Exclusions From Income

(b) In determining the income of an individual (and his eligible spouse) there shall be excluded—

(1) subject to limitations (as to amount or otherwise) prescribed by the Secretary, if such individual is [a child who] *under the age of 22 and* is, as determined by the Secretary, a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment, the earned income of such individual;

(2)(A) the first $240 per year (or proportionately smaller amounts for shorter periods) of income (whether earned or unearned) other than income which is paid on the basis of the need of the eligible individual;

(B) monthly (or other periodic) payments received by any individual, under a program established prior to July 1, 1973, if such payments are made by the State of which the individual receiving such payments is a resident, and if eligibility of any individual for such payments is not based on need and is based solely on attainment of age 65 and duration of residence in such State by such individual.

(3)(A) the total unearned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with criteria prescribed by the Secretary, is received too infrequently or irregularly to be included, if such income so received does not exceed $60 in such quarter, and (B) the total earned income of such individual (and such spouse, if any) in a calendar quarter which, as determined in accordance with such criteria, is received too infrequently or irregularly to be included, if such income so received does not exceed $30 in such quarter;

(4)(A) if such individual (or such spouse) is blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1002 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter

periods) or earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, (ii) an amount equal to any expenses reasonably attributable to the earning of any income, and (iii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan,

(B) if such individual (or such spouse) is disabled but not blind (and has not attained age 65, or received benefits under this title (or aid under a State plan approved under section 1402 or 1602) for the month before the month in which he attained age 65), (i) the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof, and (ii) such additional amounts of other income, where such individual has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan, or

(C) if such individual (or such spouse) has attained age 65 and is not included under subparagraph (A) or (B), the first $780 per year (or proportionately smaller amounts for shorter periods) of earned income not excluded by the preceding paragraphs of this subsection, plus one-half of the remainder thereof;

(5) any amount received from any public agency as a return or refund of taxes paid on real property or on food purchased by such individual (or such spouse);

(6) assistance, furnished to or on behalf of such individual (and spouse), which is based on need and furnished by any State or political subdivision of a State;

(7) any portion of any grant, scholarship, or fellowship received for use in paying the cost of tuition and fees at any educational (including technical or vocational education) institution;

(8) home produce of such individual (or spouse) utilized by the household for its own consumption;

(9) if such individual is [a child] *under age 18*, one-third of any payment for his support received from an absent parent;

(10) any amounts received for the foster care of [a child who is not an eligible individual] *an individual who is not an eligible individual or eligible spouse* but who is living in the same home as such individual and was placed in such home by a public or non-profit private child-placement or child-care agency; [and]

(11) assistance received under the Disaster Relief Act of 1974 or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President [.]; *and*

(12) interest income received on assistance funds referred to in paragraph (11) within the nine-month period beginning on the date such funds are received (or such longer periods as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period).

Resources

Exclusions From Resources

Sec. 1613. (a) In determining the resources of an individual (and his eligible spouse, if any) there shall be excluded—

(1) the home (including the land that appertains thereto);

(2) household goods, personal effects, and an automobile, to the extent that their total value does not exceed such amount as the Secretary determines to be reasonable;

(3) other property which, as determined in accordance with and subject to limitations prescribed by he Secretary, is so essential to the means of self-support of such individual (and such spouse) as to warrant its exclusion;

(4) such resources of an individual who is blind or disabled and who has a plan for achieving self-support approved by the Secretary, as may be necessary for the fulfillment of such plan; [and]

(5) in the case of Natives of Alaska, shares of stock held in a Regional or a Village Corporation, during the period of twenty years in which such stock is inalienable, as provided in section 7(h) and section 8(c) of the Alaska Native Claims Settlement Act[.]; *(6) assistance referred to in section 1612(b)(11) for the nine-month period beginning on the date such funds are received (or for such longer period as the Secretary shall by regulations prescribe in cases where good cause is shown by the individual concerned for extending such period); and, for purposes of this paragraph, the term "assistance" includes interest thereon which is excluded from income under section 1612(b)(12); and*

(7) in the case of an individual (or the eligible spouse) of an individual who elects (in such form and manner as the Secretary shall by regulations prescribe) to have the amount of his or her (as the case may be) resources determined without regard to the succeeding sentence, assets not in excess of $1,500 in value set aside to be used exclusively for purposes of providing for the burial of such individual or such eligible spouse, for so long as such assets remain set aside for such purpose.

In determining the resources of an individual (or eligible spouse) an insurance policy shall be taken into account only to the extent of its cash surrender value; except that if the total face value of all life insurance policies on any person is $1,500 or less, no part of the value of any such policy shall be taken into account.

Disposition of Resources

(b) The Secretary shall prescribe the period or periods of time within which, and the manner in which, various kinds of property must be disposed of in order not to be included in determining an individual's eligibility for benefits. Any portion of the individual's benefits paid for any such period shall be conditioned upon such disposal; and any benefits so paid shall (at the time of the disposal) be con-

sidered overpayments to the extent they would not have been paid had the disposal occurred at the beginning of the period for which such benefits were paid.

Meaning of Terms

Aged, Blind, or Disabled Individual

Sec. 1614. (a)(1) * * *

(3)(A) An individual shall be considered to be disabled for purposes of this title if he is unable to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or which has lasted or can be expected to last for a continuous period of not less than twelve months (or, in the case of [a child] *an individual* under the age of 18, if he suffers from any medically determinable physical or mental impairment of comparable severity).

* * * * * * *

Definition of Child

[(c) For purposes of this title, the term "child" means an individual who is neither married nor (as determined by the Secretary) the head of a household, and who is (1) under the age of eighteen, or (2) under the age of twenty-two and (as determined by the Secretary) a student regularly attending a school, college, or university, or a course of vocational or technical training designed to prepare him for gainful employment.]

* * * * * * *

Income and Resources of Individuals Other Than Eligible Individuals and Eligible Spouses

(f)(1) For purposes of determining eligibility for and the amount of benefits for any individual who is married and whose spouse is living with him in the same household but is not an eligible spouse, such individual's income and resources shall be deemed to include any income and resources of such spouse, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

(2) For purposes of determining eligibility for and the amount of benefits for any individual who is [a child under age 21] *under age 18*, such individual's income and resources shall be deemed to include any income and resources of a parent of such individual (or the spouse of such a parent) who is living in the same household as such individual, whether or not available to such individual, except to the extent determined by the Secretary to be inequitable under the circumstances.

* * * * * * *

Part B—Procedural and General Provisions

Payments and Procedures

Payment of Benefits

Sec. 1631. (a)(1) Benefits under this title shall be paid at such time or times and in such installments as will best effectuate the pur-

poses of this title, as determined under regulations (and may in any case be paid less frequently than monthly where the amount of the monthly benefit would not exceed $10).

(2) Payments of the benefit of any individual may be made to any such individual or to his eligible spouse (if any) or partly to each, or, if the Secretary deems it appropriate to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse). Notwithstanding the provisions of the preceding sentence, in the case of any individual or eligible spouse referred to in section 1611(e)(3)(A), the Secretary shall provide for making payments of the benefit to any other person (including an appropriate public or private agency) who is interested in or concerned with the welfare of such individual (or spouse), *unless, and only so long as, the Secretary determines, upon the certification of the physician attending such individual or spouse in the institution or facility where such individual or spouse is undergoing treatment as required by such section, that the payment of benefits directly to such individual or spouse would be of significant therapeutic value to him and that there is substantial reason to believe that he would not misuse or improperly spend the funds involved.*

(3) The Secretary may by regulation establish ranges of incomes within which a single amount of benefits under this title shall apply.

(4) The Secretary—

(A) may make to any individual initially applying for benefits under this title who is presumptively eligible for such benefits and who is faced with financial emergency a cash advance against such benefits in an amount not exceeding $100; and

(B) may pay benefits under this title to an individual applying for such benefits on the basis of disability or blindness for a period not exceeding 3 months prior to the determination of such individual's disability or blindness, if such individual is presumptively disabled or blind and is determined to be otherwise eligible for such benefits, and any benefits so paid prior to such determination shall in no event be considered overpayments for purposes of subsection (b) solely because such individual is determined not to be disabled or blind.

(5) Payment of the benefit of any individual who is an aged, blind, or disabled individual solely by reason of blindness (as determined under section 1614(a)(2)) or disability (as determined under section 1614(a)(3)), and who ceases to be blind or to be under such disability, shall continue (so long as such individual is otherwise eligible) through the second month following the month in which such blindness or disability ceases.

Overpayments and Underpayments

(b)(*1*) Whenever the Secretary finds that more or less than the correct amount of benefits has been paid with respect to any individual, proper adjustment or recovery shall, subject to the succeeding provisions of this subsection, be made by appropriate adjustments in future payments to such individual or by recovery from or payment to such individual or his eligible spouse (or by recovery from the estate of either). The Secretary shall make such provision as he finds appropriate in the case of payment of more than the correct amount of benefits

with respect to an individual with a view to avoiding penalizing such individual or his eligible spouse who was without fault in connection with the overpayment, if adjustment or recovery on account of such overpayment in such case would defeat the purposes of this title, or be against equity or good conscience, or (because of the small amount involved) impede efficient or effective administration of this title.

(2) *For payments of monthly insurance benefits which are considered to have been paid as an advance under this title, see section 1132.*

* * * * * * *

Administration

Sec. 1633. (a) Subject to subsection (b), the Secretary may make such administrative and other arrangements (including arrangements for the determination of blindness and disability under section 1614(a)(2) and (3) in the same manner and subject to the same conditions as provided with respect to disability determinations under section 221) as may be necessary or appropriate to carry out his functions under this title.

(b) In determining, for purposes of this title, whether an individual is blind, there shall be an examination of such individual by a physician skilled in the diseases of the eye or by an optometrist, whichever the individual may select.

(c)(1) *The Secretary is authorized and directed to enter into arrangements with States to provide for the hiring and training by the States of individuals to serve in Social Security Administration offices, and local public assistance offices, to provide information to individuals receiving benefits under this title concerning other public assistance programs and services available to such individuals, and to provide information to individuals concerning benefits available under this title.*

(2) *No individual shall be hired under the provisions of this subsection unless such individual is an eligible individual as defined in section 1611, or would be an eligible individual but for the income received by such individual under the provisions of this subsection.*

(3) *The agreement entered into between the Secretary and any State under this section shall provide for the reimbursement of the expenses of such State in implementing the provisions of this section in an amount which does not exceed for any fiscal year the product of $5,000,000 multiplied by the ratio of individuals who received supplemental security income benefits in such State (including individuals who received benefits under an agreement entered into under section 1616) for the December preceding such fiscal year to the total number of individuals who received such benefits for such December in all the States.*

(4) *No person hired under the provisions of this subsection shall receive remuneration for employment from funds appropriated under this title in an amount in excess of $5,000 per year.*

Part C—State Plans To Meet Nonrecurring Emergency Needs

Authorization of Appropriations

Sec. 1641. *For the purpose of enabling each State to meet nonrecurring emergency needs of individuals in such State who are recipi-*

cnts of supplemental security income benefits under this title, there is authorized to be appropriated, for the fiscal year commencing October 1, 1979, the sum of $10,000,000, and for each fiscal year thereafter, such sums as may be necessary.

Allotments to States

Sec. 1642. *The sum appropriated pursuant to section 1641 for any fiscal year shall be allotted by the Secretary to each State in an amount which bears the same ratio to such sum as the number of individuals in such State who are recipients of supplemental security income benefits (or supplementary payments made by the Secretary under an agreement entered into under section 1616 or an administration agreement entered into under section 212(b) of Public Law 93–66) bears to the number of such individuals in all the States in the United States. The Secretary shall promulgate the allotment of each State for each fiscal year under this paragraph prior to the first day of the third month of the preceding fiscal year, as determined on the basis of the most recent satisfactory data available from the Department of Health, Education, and Welfare.*

Payment to States

Sec. 1643. *From the sums appropriated therefor and the allotment available under this part, the Secretary shall from time to time pay to each State which has an approved State plan under this part an amount equal to 50 per centum of the expenditures made by the State during such year in providing emergency assistance to meet the nonrecurring needs of individuals in such State who are recipients of, or eligible for supplemental security income benefits or payments of the type described in section 1616 or in section 212(b) of Public Law 93–66. Payment hereunder may be made in advance, on the basis of estimated expenditures, or by way of reimbursement.*

State Plans

Sec. 1644. *(a) A State plan to meet the nonrecurring emergency needs of recipients in such State of benefits or payments (referred to in section 1642) made by the Secretary must—*

(1) provide that the State plan shall be administered by the State agency having responsibility of furnishing services to individuals described in section 2002(a)(4)(C),

(2) conform with such of the requirements, imposed as a condition for Federal financial participation under title XX in State programs established to carry out the purposes of such title, as the Secretary shall prescribe for the effective administration of such State plan, and

(3) contain such other provisions as the Secretary shall prescribe to assure that the purposes of this part are effectively, efficiently, and economically carried out.

(b) The Secretary shall approve any plan which fulfills the conditions specified by or pursuant to subsection (a).

Operation of State Plans

Sec. 1645. If the Secretary, after reasonable notice and opportunity for hearing to the State, finds that the State plan of any State, approved by the Secretary under this part, is so changed that it no longer complies with the requirements imposed under section 1644(a), or that, in the administration of the plan there is a failure to comply substantially with any of such requirements, the Secretary shall notify the State that further payments will not be made to the State (or, in his discretion, that payments will be limited to categories under or parts of the State plan not affected by such failure) until the Secretary is satisfied that such plan is no longer so changed or that there is no longer any such failure to comply. Until he is so satisfied he shall make no further payments to such State (or shall limit payments to categories under or parts of the State plan not affected by such failure).

Definitions and Limitations

Sec. 1646. (a) When used in this part—

(1) the term "State" means one of the fifty States or the District of Columbia;

(2) the term "emergency assistance" means the provision of such payments of money, payments in kind, or services as the State may specify (consistent with regulations prescribed by the Secretary) to assist an eligible individual in meeting a nonrecurring emergency need; and

(3) the term "nonrecurring emergency need" means an occurrence or condition, which is of a nonrecurring nature and which for a limited time makes necessary the provision of money payments in kind, or services to enable an eligible individual to avoid destitution, to provide living arrangements for such individual, or to meet such other situations as the State may specify (consistent with regulations prescribed by the Secretary) as would, except for the provision of the necessary payments or services to alleviate the situation involved, be extremely detrimental to the life, health, and well-being of the eligible individual affected thereby.

(b) Notwithstanding any other provision of this part, Federal financial participation in an expenditure for emergency assistance under this part shall be limited (with respect to any individual) to one period, not in excess of 30 days, in any 12-month period.

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TITLE XIX—GRANTS TO STATES FOR MEDICAL ASSISTANCE PROGRAMS

* * * * * * *

Payment to States

Sec. 1903. (a) * * *

(n) Whenever medical assistance is furnished, under a State plan (approved under this title), to an individual who has been found by the State to be eligible therefor because of an erroneous determination by the Secretary that such individual was eligible for benefits under

the supplemental security income program established by title XVI (or under a State supplementation program administered by the Secretary pursuant to an agreement entered into under section 1616 of this Act or section 212(b)(1) of Public Law 93-66), the amount of the expenditures made by the State (except to the extent that recovery thereof is made) in furnishing such assistance to such individual, shall, for purposes of the preceding provisions of this section, be regarded as having been made to an individual who was eligible therefor under the State plan.

* * * * * * *

Definitions

Sec. 1905. For purposes of this title—

(a) * * *

(b) The term "Federal medical assistance percentage" for any State shall be 100 per centum less the State percentage; and the State percentage shall be that percentage which bears the same ratio to 45 per centum as the square of the per capita income of such State bears to the square of the per capita income of the continental United States (including Alaska) and Hawaii; except that (1) the Federal medical assistance percentage shall in no case be less than 50 per centum or more than 83 per centum, and (2) the Federal medical assistance percentage for Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, shall be 50 per centum. The Federal medical assistance percentage for any State shall be determined and promulgated in accordance with the provisions of subparagraph (B) of section 1110(a)(8). Notwithstanding the first sentence of this section, the Federal medical assistance percentage shall be 100 per centum with respect to amounts expended as medical assistance for services which are received through an Indian Health Service facility whether operated by the Indian Health Service or by an Indian tribe or tribal organization (as defined in section 4 of the Indian Health Care Improvement Act).

TITLE XX—GRANTS TO STATES FOR SERVICES

* * * * * * *

Payments to States

Sec. 2002. (a)(1) * * *

(2)(A) No payment with respect to any expenditures other than expenditures for personnel training or retraining directly related to the provision of services may be made under this section to any State for any fiscal year in excess of an amount which bears the same ratio to [$2,500,000,000] *$2,700,000,000* as the population of that State bears to the population of the fifty States and the District of Columbia. The Secretary shall promulgate the limitation applicable to each State for each fiscal year under this paragraph prior to the first day of the third month of the preceding fiscal year, as determined on the basis of the most recent satisfactory data available from the Department of Commerce.

(B)(*i*) Each State with respect to which a limitation is promulgated under subparagraph (A) for any fiscal year shall, [at the earliest practicable date after] *prior to* the commencement of such fiscal year (and in accordance with regulations prescribed by the Secretary), certify to the Secretary whether the amount of its limitation [is greater or] *exceeds or is* less than the amount needed by the State, for uses to which the limitation applies, for such fiscal year and, if so, the amount by which the amount of such limitation [is greater or] *exceeds or is* less than such need.

(*ii*) *If—*

(I) any State which certified under clause (i) that its limitation for any fiscal year is equal to or less than the amount needed by the State (for uses to which the limitation applies) subsequently determines that the amount of such limitation exceeds the amount so needed, or

(II) any State which certified under clause (i) that its limitation for any fiscal year exceeds the amount needed by the State (for such uses) subsequently determines that the amount of such limitation exceeds the amount so needed by more than the amount of the excess so certified,

such State shall certify to the Secretary the amount, or the additional amount, by which the limitation exceeds such need.

[(C) If any State certifies, in accordance with subparagraph (B), that the amount of its limitation for any fiscal year is greater than its need for such year, then the amount of the limitation of such State for such year shall be reduced by the excess of its limitation amount over its need, and the amount of such reduction shall be available for allotment as provided in subparagraph (D).]

(*C*) *If any State certifies—*

(i) in accordance with subparagraph (B)(i) that the amount of its limitation for any fiscal year as promulgated under subparagraph (A) exceeds its need for such year, or

(ii) in accordance with subparagraph (B)(ii) that the amount of its limitation for such fiscal year as so promulgated exceeds its need for such year or exceeds such need by an additional amount,

then such limitation shall be reduced by the amount of such excess or such additional excess; and the amount of the reduction shall be available for allotment as provided in subparagraph (D).

(D) Of the amounts made available, pursuant to subparagraph (C), for allotment for any fiscal year, the Secretary (i) shall allot to the jurisdiction of Puerto Rico $15,000,000, to the jurisdiction of Guam $500,000, and to the jurisdiction of the Virgin Islands $500,000, which shall be available to each such jurisdiction in addition to amounts available under section 1108 for purposes of matching the expenditures of such jurisdictions for services pursuant to sections 3(a) (4) and (5), 403(a)(3), 1003(a) (3) and (4), 1403(a) (3) and (4), and 1603(a) (4) and (5): *Provided*, That if the amounts *which have been* made available *as of any time during the fiscal year*, pursuant to subparagraph (C), are insufficient to meet the requirements of this clause, then such amounts as [are available] *have theretofore been made available* shall be allotted to each of the three jurisdictions in proportion to their respective populations.

* * * * * * *

EXCERPTS FROM THE INTERNAL REVENUE CODE OF 1954 26 U.S.C. 1—

Subtitle A—Income Taxes

CHAPTER 1—NORMAL TAXES AND SURTAXES

SUBCHAPTER A—DETERMINATION OF TAX LIABILITY

* * * * * * *

Part IV—Credits Against Tax

Subpart A—Credits Allowable

* * * * * * *

SEC. 40. EXPENSES OF WORK INCENTIVE PROGRAMS.

(a) GENERAL RULE.—There shall be allowed, as a credit against the tax imposed by this chapter, the amount determined under subpart C of this part.

(b) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this section and subpart C.

* * * * * * *

SEC. 43. EARNED INCOME.

(a) ALLOWANCE OF CREDIT.—In the case of an eligible individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to 10 percent of so much of the earned income for the taxable year as does not exceed $4,000.

* * * * * * *

SEC. 50B. DEFINITIONS; SPECIAL RULES.

(a) WORK INCENTIVE PROGRAM EXPENSES.—

(1) IN GENERAL.—For purposes of this subpart, the term "work incentive program expenses" means the sum of—

(A) the amount of wages paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive) of employees who are certified by the Secretary of Labor as—

(i) having been placed in employment under a work incentive program established under section 432(b)(1) of the Social Security Act, and

(ii) not having displaced any individual from employment, plus

(B) the amount of Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer for services rendered during the first 12 months of employment (whether or not consecutive).

(2) DEFINITIONS.—For purposes of this section, the term "Federal welfare recipient employment incentive expenses" means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—

(A) before January 1, 1980, or

(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before [October 1, 1977] *October 1, 1982.*

(3) EXCLUSION.—No item taken into account under paragraph (1)(A) shall be taken into account under paragraph (1)(B). No item taken into account under paragraph (1)(B) shall be taken into account under paragraph (1)(A).

(b) WAGES.—For purposes of subsection (a), the term "wages" means only cash remuneration (including amounts deducted and withheld).

(c) LIMITATIONS.—

(1) TRADE OR BUSINESS EXPENSES.—No item shall be taken into account under subsection (a)(1)(A) unless such item is incurred in a trade or business of the taxpayer.

(2) REIMBURSED EXPENSES.—No item shall be taken into account under subsection (a) to the extent that the taxpayer is reimbursed for such item (*except for items consisting of wages for which reimbursement is made under the provisions of section 3(c) of Public Law 94-401*).

(3) GEOGRAPHICAL LIMITATION.—No item shall be taken into account under subsection (a) with respect to any expense paid or incurred by the taxpayer with respect to employment outside the United States.

(4) MAXIMUM PERIOD OF TRAINING OR INSTRUCTION.—No item with respect to any employee shall be taken into account under subsection (a)(1)(A) after the end of the 24-month period beginning with the date of initial employment of such employee by the taxpayer.

(5) INELIGIBLE INDIVIDUALS.—No item shall be taken into account under subsection (a) with respect to an individual who—

(A) bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to the taxpayer, or, if the taxpayer is a corporation, to an individual who owns, directly or indirectly, more than 50 percent in value of the outstanding stock of the corporation (determined with the application of section 267(c)),

(B) if the taxpayer is an estate or trust, is a grantor, beneficiary, or fiduciary of the estate or trust, or is an individual who bears any of the relationships described in paragraphs (1) through (8) of section 152(a) to a grantor, beneficiary, or fiduciary of the estate or trust, or

(C) is a dependent (described in section 152(a)(9)) of the taxpayer, or, if the taxpayer is a corporation, of an individual described in subparagraph (A), or, if the taxpayer is an estate or trust, of a grantor, beneficiary, or fiduciary of the estate or trust.

(d) SUBCHAPTER S CORPORATIONS.—In case of an electing small business corporation (as defined in section 1371)—

(1) the work incentive program expenses for each taxable year shall be apportioned pro rata among the persons who are shareholders of such corporation on the last day of such taxable year, and

(2) any person to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses.

(e) ESTATES AND TRUSTS.—In the case of an estate or trust—

(1) the work incentive program expenses for any taxable year shall be apportioned between the estate or trust and the beneficiaries on the basis of the income of the estate or trust allocable to each,

(2) any beneficiary to whom any expenses have been apportioned under paragraph (1) shall be treated (for purposes of this subpart) as the taxpayer with respect to such expenses, and

(3) the $50,000 amount specified under subparagraphs (A) and (B) of section 50A(a)(2) applicable to such estate or trust shall be reduced to an amount which bears the same ratio to $50,000 as the amount of the expenses allocated to the trust under paragraph (1) bears to the entire amount of such expenses.

(f) LIMITATIONS WITH RESPECT TO CERTAIN PERSONS.—In the case of—

(1) an organization to which section 593 applies,

(2) a regulated investment company or a real estate investment trust subject to taxation under subchapter M (section 851 and following), and

(3) a cooperative organization described in section 1381(a), rules similar to the rules provided in section 46(e) shall apply under regulations prescribed by the Secretary.

(g) ELIGIBLE EMPLOYEE.—

(1) ELIGIBLE EMPLOYEE.—For purposes of subsection (a)(1)(B), the term "eligible employee" means an individual—

(A) who has been certified by the Secretary of Labor or by the appropriate agency of State or local government as being eligible for financial assistance under part A of title IV of the Social Security Act and as having continuously received such financial assistance during the 90 day period which immediately precedes the date on which such individual is hired by the taxpayer,

(B) who has been employed by the taxpayer for a period in excess of 30 consecutive days on a substantially full-time basis, *or in the case of an individual whose services are performed in connection with a child day care program of the taxpayer, on either a full-time or part-time basis*,

(C) who has not displayed any other individual from employment by the taxpayer, and

(D) who is not a migrant worker.

The term "eligible employee" includes an employee of the taxpayer whose services are not performed in connection with a trade or business of the taxpayer.

(2) MIGRANT WORKER.—For purposes of paragraph (1), the term "migrant worker" means an individual who is employed for services for which the customary period of employment by one employer is less than 30 days if the nature of such services requires that such individual travel from place to place over a short period of time.

(h) CROSS REFERENCE.—

For application of this subpart to certain acquiring corporations, see section 381(c)(24).

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Subtitle C—Employment Taxes

* * * * * * *

CHAPTER 23—FEDERAL UNEMPLOYMENT TAX ACT

SEC. 3304. APPROVAL OF STATE LAWS.

(a) REQUIREMENTS.—The Secretary of Labor shall approve any State law submitted to him, within 30 days of such submission, which he finds provides that—

* * * * * * *

(16)(A) wage information contained in the records of the agency administering the State law which is necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) for purposes of determining an individual's eligibility for aid or services, or the amount of such aid or services, under a State plan for aid and services to needy families with children approved under part A of title IV of the Social Security Act, shall be made available to a State or political subdivision thereof, when such information is specifically requested by such State or political subdivision for such purpose, and

(B) such safeguards are established as are necessary (as determined by the Secretary of Health, Education, and Welfare in regulations) to insure that such information is used only for the

[(16)] *(17)* all the rights, privileges, or immunities conferred by such law or by acts done pursuant thereto shall exist subject to the power of the legislature to amend or repeal such law at any time.

(b) NOTIFICATION.—The Secretary of Labor shall, upon approving such law, notify the governor of the State of his approval.

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Excerpts from Public Law 90–248 (Social Security Amendments of 1967)

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Work Incentive Program for Recipients of Aid Under Part A of Title IV

* * * * * * *

Sec. 204. (a) * * *

(c)(1) * * *

[(2) The provisions of section 409 of the Social Security Act shall not apply to any State with respect to any quarter beginning after June 30, 1968.]

* * * * * * *

Sec. 248. * * *

(b) Notwithstanding subparagraphs (A) and (B) of section 403(a)(3) of such Act (as amended by this Act), the rate specified in such subparagraphs in the case of Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands*, shall be 60 per centum (rather than 75 or 85 per centum).

(c) Effective July 1, 1969, neither the provisions of clauses (A) through (C) of section 402(a)(7) of such Act as in effect before the enactment of this Act nor the provisions of section 402(a)(8) of such Act as amended by section 202(b) of this Act shall apply in the case of Puerto Rico, the Virgin Islands, [or] Guam, *or the Commonwealth of the Northern Mariana Islands*. Effective no later than July 1, 1972, the State plans of Puerto Rico, the Virgin Islands, [and] Guam, *and the Commonwealth of the Northern Mariana Islands* approved under section 402 of such Act shall provide for the disregarding of income in making the determination under section 402(a)(7) of such Act in amounts (agreed to between the Secretary and the State agencies involved) sufficiently lower than the amounts specified in section 402(a)(8) of such Act to reflect appropriately the applicable differences in income levels.

(d) The amendment made by section 220(a) of this Act shall not apply in the case of Puerto Rico, the Virgin Islands, [or] Guam *or the Commonwealth of the Northern Mariana Islands*.

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Excerpt From Public Law 90–321 (Consumer Credit Protection Act)

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TITLE III—RESTRICTION ON GARNISHMENT

* * * * * * *

Sec. 301. Findings and purpose

(a) The Congress finds:

(1) The unrestricted garnishment of compensation due for personal services encourages the making of predatory extensions of credit. Such extensions of credit divert money into excessive credit payments and thereby hinder the production and flow of goods in interstate commerce.

(2) The application of garnishment as a creditors' remedy frequently results in loss of employment by the debtor, and the resulting disruption of employment, production, and consumption constitutes a substantial burden on interstate commerce.

(3) The great disparities among the laws of the several States relating to garnishment have, in effect, destroyed the uniformity of the bankruptcy laws and frustrated the purposes thereof in many areas of the country.

(b) On the basis of the findings stated in subsection (a) of this section, the Congress determines that the provisions of this title are neces-

sary and proper for the purpose of carrying into execution the powers of the Congress to regulate commerce and to establish uniform bankruptcy laws.

Sec. 302. Definitions

For the purposes of this title:

(a) The term "earnings" means compensation paid or payable for personal services, whether denominated as wages, salary, commission, bonus, or otherwise, and includes periodic payments pursuant to a pension or retirement program.

(b) The term "disposable earnings" means that part of the earnings of any individual remaining after the deduction from those earnings of any amounts required by law to be withheld.

(c) The term "garnishment" means any legal or equitable procedure through which the earnings of any individual are required to be withheld for payment of any debt.

Sec. 303. Restriction on garnishment

(a) Except as provided in subsection (b) and in section 305, the maximum part of the aggregate disposable earnings of an individual for any workweek which is subjected to garnishment may not exceed

(1) 25 per centum of his disposable earnings for that week, or

(2) the amount by which his disposable earnings for that week exceed thirty times the Federal minimum hourly wage prescribed by section 6(a)(1) of the Fair Labor Standards Act of 1938 in effect at the time the earnings are payable,

whichever is less. In the case of earnings for any pay period other than a week, the Secretary of Labor shall by regulation prescribe a multiple of the Federal minimum hourly wage equivalent in effect to that set forth in paragraph (2).

(b)(1) The restrictions of subsection (a) do not apply in the case of

(A) any order for the support of any person issued by a court of competent jurisdiction or in accordance with an administrative procedure, which is established by State law, which affords substantial due process, and is subject to judicial review,

(B) any order of any court of bankruptcy under chapter XIII of the Bankruptcy Act,

(C) any debt due for any State or Federal tax.

(2) The maximum part of the aggregate disposable earnings of an individual for any workweek which is subject to garnishment to enforce any order for the support of any person shall not exceed—

(A) where such individual is supporting his spouse or dependent child (other than a spouse or child with respect to whose support such order is [used] *issued*, 50 per centum of such individual's disposable earnings for that week, and

(B) where such individual is not supporting such a spouse or dependent child described in clause (A), 60 per centum of such individual's disposable earnings for that week;

except that, with respect to the disposable earnings of any individual for any workweek, the 50 per centum specified in clause (A) shall be deemed to be 55 per centum and the 60 per centum specified in clause (B) shall be deemed to be 65 per centum, if and to the extent that such earnings are subject to garnishment to enforce a support order

with respect to a period which is prior to the twelve-week period which ends with the beginning of such workweek.

(c) No court of the United States or any State, and no State (or officer or agency thereof), may make, execute, or enforce any order or process in violation of this section.

Sec. 304. Restriction on discharge from employment by reason of garnishment

(a) No employer may discharge any employee by reason of the fact that his earnings have been subjected to garnishment for any one indebtedness.

(b) Whoever willfully violates subsection (a) of this section shall be fined not more than $1,000, or imprisoned not more than one year, or both.

Sec. 305. Exemption for State-regulated garnishments

The Secretary of Labor may by regulation exempt from the provisions of section 303(a) and (b)(2) garnishments issued under the laws of any State if he determines that the laws of that State provide restrictions on garnishment which are substantially similar to those provided in section 303(a) and (b)(2).

Sec. 306. Enforcement by Secretary of Labor

The Secretary of Labor, acting through the Wage and Hour Division of the Department of Labor, shall enforce the provisions of this title.

Sec. 307 Effect on State laws

This title does not annul, alter, or affect, or exempt any person from complying with, the laws of any State.

(1) prohibiting garnishments or providing for more limited garnishments than are allowed under this title, or

(2) prohibiting the discharge of any employee by reason of the fact that his earnings have been subjected to garnishment for more than one indebtedness.

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Excerpts From Public Law 93–66, As Amended

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TITLE II—PROVISIONS RELATING TO THE SOCIAL SECURITY ACT

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Part B—Provisions Relating to Federal Program of Supplemental Security Income

* * * * * * *

Mandatory Minimum State Supplementation of SSI Benefits Program

Sec. 212. (a)(1) In order for any State (other than the Commonwealth of Puerto Rico, Guam, or the Virgin Islands) to be eligible for

payments pursuant to title XIX, with respect to expenditures for any quarter beginning after December 1973, such State must have in effect an agreement with the Secretary of Health, Education, and Welfare (hereinafter in this section referred to as the "Secretary") whereby the State will provide to individuals residing in the State supplementary payments as required under paragraph (2).

(2) Any agreement entered into by a State pursuant to paragraph (1) shall provide that each individual who—

(A) is an aged, blind, or disabled individual (within the meaning of section 1614(a) of the Social Security Act, as enacted by section 301 of the Social Security Amendments of 1972), and

(B) for the month of December 1973 was a recipient of (and was eligible to receive) aid or assistance (in the form of money payments) under a State plan of such State (approved under title I, X, XIV, or XVI, of the Social Security Act)

shall be entitled to receive, from the State, the supplementary payment described in paragraph (3) for each month, beginning with January 1974, and ending with whichever of the following first occurs:

(C) the month in which such individual dies, [or]

(D) the first month in which such individual ceases to meet the condition specified in subparagraph (A)[;],

[except that no individual shall be entitled to receive such supplementary payment for any month, if, for such month, such individual was ineligible to receive supplemental income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(e)(1)(A), (2), or (3), 1611(f), or 1615(c) of such Act.]

(E) the first month after the month of enactment of the Public Assistance Amendments of 1977 for which such individual is not a resident of the State to which the provision of subparagraph (B) applies,

(F) the first month after the month of enactment of the Public Assistance Amendments of 1977 for which the sum of such individual's title XVI benefit plus other income (as determined under paragraph (3)(C)) and any periodic State supplement exceeds the amount of such individual's December 1973 income (as determined under paragraph (3)(B)) as reduced by the amount, if any, by which the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual has been reduced under the provisions of paragraph (3)(D),

(G) the first month after the month of enactment of the Public Assistance Amendments of 1977 for which such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(e)(1)(A) (except in the case of an individual who is in a public institution which is a hospital, extended care facility, nursing home, or intermediate care facility), 1611(e)(2) or (3), 1611(f), or 1615(c) of such Act, or

(H) the first month after the month of enactment of the Public Assistance Amendments of 1977 for which such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(a)(1)(B) or (2)(B) of such Act;

except that no individual shall be eligible to receive such supplementary payment for any month, if, for such month, such individual is ineligible to receive supplemental security income benefits under title XVI of the Social Security Act by reason of the provisions of section 1611(e)(1)(A) of such Act as they apply in the case of an individual who is in a public institution which is a hospital, extended care facility, nursing home, or intermediate care facility.

(3)(A) The supplementary payment referred to in paragraph (2) which shall be paid for any month to any individual who is entitled thereto under an agreement entered into pursuant to this subsection, shall (except as provided in subparagraphs (D) and (E)) be an amount equal to (i) the amount by which such individual's "December 1973 income" (as determined under subparagraph (B)) exceeds the amount of such individual's "title XVI benefit plus other income" (as determined under subparagraph (C)) for such month, or (ii) if greater, such amount as the State may specify.

(B) For purposes of subparagraph (A), an individual's "December 1973 income" means an amount equal to the aggregate of—

(i) the amount of the aid or assistance (in the form of money payments) which such individual would have received (including any part of such amount which is attributable to meeting the needs of any other person whose presence in such individual's home is essential to such individual's well-being) for the month of December 1973 under a plan (approved under title I, X, XIV, or XVI, of the Social Security Act) of the State entering into an agreement under this subsection, if the terms and conditions of such plan (relating to eligibility for and amount of such aid or assistance payable thereunder) were, for the month of December 1973, the same as those in effect, under such plan, for the month of June 1973, together with the bonus value of food stamps for January 1972, as defined in section 401(b)(3) of Public Law 92–603, if, for such month, such individual resides in a State which provides State supplementary payments (I) of the type described in section 1616(a) of the Social Security Act, and (II) the level of which has been found by the Secretary pursuant to section 8 of Public Law 93–233 to have been specifically increased so as to include the bonus value of food stamps, and

(ii) the amount of the income of such individual (other than the aid or assistance described in clause (i) received by such individual in December 1973, minus any such income which did not result, but which if properly reported would have resulted in a reduction in the amount of such aid or assistance.

(C) For purposes of subparagraph (A), the amount of an individual's "title XVI benefit plus other income" for any month means an amount equal to the aggregate of—

(i) the amount (if any) of the supplemental security income benefit to which such individual is entitled for such month under title XVI of the Social Security Act, and

(ii) the amount of any income of such individual for such month (other than income in the form of a benefit described in clause (i)).

(D) If the amount determined under subparagraph (B)(i) includes, in the case of any individual, an amount which was payable to such individual solely because of—

(i) a special need of such individual (including any special allowance for housing, or the rental value of housing furnished in kind to such individual in lieu of a rental allowance) which existed in December 1973, or

(ii) any special circumstance (such as the recognition of the needs of a person whose presence in such individual's home, in December 1973, was essential to such individual's well-being), and, if for any month after December 1973 there is a change with respect to such special need or circumstance which, if such change had existed in December 1973, the amount described in subparagraph (B)(i) with respect to such individual would have been reduced on account of such change, then, for such month and for each month thereafter the amount of the supplementary payment payable under the agreement entered into under this subsection to such individual shall (unless the State, at its option, otherwise specifies) be reduced by an amount equal to the amount by which the amount (described in subparagraph (B)(i)) would have been so reduced. *Determinations made with respect to a change in such special need or circumstance shall be made by the State and certified to the Secretary. The State shall provide an opportunity for a hearing for any individual with respect to whom such a determination is made if such individual disagrees with such determination.*

(E)(i) In the case of an individual who, for December 1973 lived as a member of a family unit other members of which received aid (in the form of money payments) under a State plan of a State approved under part A of title IV of the Social Security Act, such State at its option, may (subject to clause (ii)) reduce such individual's December 1973 income (as determined under subparagraph (B)) to such extent as may be necessary to cause the supplementary payment (referred to in paragraph (2)) payable to such individual for January 1974 or any month thereafter to be reduced to a level designed to assure that the total income of such individual (and of the members of such family unit) for any month after December 1973 does not exceed the total income of such individual (and of the members of such family unit) for December 1973.

(ii) The amount of the reduction (under clause (i)) of any individual's December 1973 income shall not be in an amount which would cause the supplementary payment (referred to in paragraph (2)) payable to such individual to be reduced below the amount of such supplementary payment which would be payable to such individual if he had, for the month of December 1973 not lived in a family, members of which were receiving aid under part A of title IV of the Social Security Act, and had had no income for such month other than that received as aid or assistance under a State plan approved under title I, X, XIV, or XVI of the Social Security Act.

(b)(1) Any State having an agreement with the Secretary under subsection (a) may enter into an administration agreement with the Secretary whereby the Secretary will, on behalf of such State, make the supplementary payments required under the agreement entered into under subsection (a).

(2) Any such administration agreement between the Secretary and a State entered into under this subsection shall provide that the State will (A) certify to the Secretary the names of each individual who, for December 1973, was a recipient of aid or assistance (in the form of money payments) under a plan of such State approved under title I, X, XIV, or XVI of the Social Security Act, together with the amount of such assistance payable to each such individual and the amount of such individual's December 1973 income (as defined in subsection (a)(3)(B)), and (B) provide the Secretary with such additional data at such times as the Secretary may reasonably require in order properly, economically, and efficiently to carry out such administration agreement.

(3) Any State which has entered into an administration agreement under this subsection shall, at such times and in such installments as may be agreed upon between the Secretary and the State, pay to the Secretary an amount equal to the expenditures made by the Secretary as supplementary payments to individuals entitled thereto under the agreement entered into with such State under subsection (a).

(c)(1) Supplementary payments made pursuant to an agreement entered into under subsection (a) shall be excluded under section 1612(b)(6) of the Social Security Act (as in effect after December 1973) in determining income of individuals for purposes of title XVI of such Act (as so in effect).

(2) Supplementary payments made by the Secretary (pursuant to an administration agreement entered into under subsection (b)) shall, for purposes of section 401 of the Social Security Amendments of 1972, be considered to be payments made under an agreement entered into under section 1616 of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972); except that nothing in this paragraph shall be construed to waive, with respect to the payments so made by the Secretary, the provisions of subsection (b) of such section 401.

(d) For purposes of subsection (a)(1), a State shall be deemed to have entered into an agreement under subsection (a) of this section if such State has entered into an agreement with the Secretary under section 1616 of the Social Security Act under which—

(1) individuals, other than individuals described in subsection (a)(2)(A) and (B), are entitled to receive supplementary payments, and

(2) supplementary benefits are payable, to individuals described in subsection (a)(2)(A) and (B) at a level and under terms and conditions which meet the minimum requirements specified in subsection (a).

(e)(*1*) Except as the Secretary may by regulations otherwise provide, the provisions of title XVI of the Social Security Act (as enacted by section 301 of the Social Security Amendments of 1972), including the provisions of part B of such title, relating to the terms and conditions under which the benefits authorized by such title are payable shall, where not inconsistent with the purposes of this section, be applicable to the payments made under an agreement under subsection (b) of this section; and the authority conferred upon the Secretary by such title may, where appropriate, be exercised by him in the administration of this section.

(2) The definition of income contained in section 1612 of the Social Security Act shall be applicable in determining income for purposes of determining eligibility for, and the amount of, payments made under an administration agreement under subsection (b). Any State which does not enter into an administration agreement under subsection (b) may use such definition of income to determine eligibility for, and the amount of, supplementary benefits required by this section, or such State may use the definition of income which was used by such State in determining eligibility for, and the amount of, assistance under the State plan approved under title I, X, XIV, or XVI of the Social Security Act as in effect for the month of June 1973.

(f) The provisions of subsection (a)(1) shall not be applicable in the case of any State—

(1) the Constitution of which contains provisions which make it impossible for such State to enter into and commence carrying out (on January 1, 1974) an agreement referred to in subsection (a), and

(2) the Attorney General (or other appropriate State official) of which has, prior to July 1, 1973, made a finding that the State Constitution of such State contains limitations which prevent such State from making supplemental payments of the type described in section 1616 of the Social Security Act.

* * * * * * *

Excerpts From Public Law 93–647, as Amended (Social Services Amendments of 1974)

Part A—Social Services Amendments

* * * * * * *

Sec. 7. (a)(1) * * *

(2) Notwithstanding the provisions of section 2004 of the Social Security Act, as amended by this Act, the first services program year of each State shall begin on October 1, 1975, and end with the close of, at the option of the State—

(A) the day in the twelve-month period beginning October 1, 1975, or

(B) the day in the twelve-month period beginning October 1, 1976,

which is the last day of the twelve-month period, established by the State as its services program year under that section. Notwithstanding the provisions of subsection (b) of section 2003 of the Social Security Act, as amended by this Act, the aggregate expenditures required by that subsection with respect to the first services program year of each State shall be the amount which bears the same ratio to the amount that would otherwise be required under that subsection as the number of months in the State's first services program year bears to twelve.

(3) Notwithstanding paragraph (1) of this subsection or section 3(f), payments under title IV or section 2002(a)(1) of the Social Security Act with respect to expenditures made prior to [October 1, 1977] *October 1, 1978*, in connection with the provision of child day

care services in day care centers and group day care homes, in the case of children between the ages of six weeks and six years, may be made without regard to the requirements relating to staffing standards which are imposed by or under section 2002(a)(9)(A)(ii) of such Act, so long as the staffing standards actually being applied in the provision of the services involved [(A)] comply with applicable State law (as in effect at the time the services are provided)[, (B) are no lower than the corresponding staffing standards which were imposed or required by applicable State law on September 15, 1975, and (C) are no lower, in the case of any day care center or group day care home, than the corresponding standards actually being applied in such center or home on September 15, 1975].

(b) The amendments made by section 3 of this Act shall be effective with respect to payments under sections 403 and 603 of the Social Security Act for quarters commencing after September 30, 1975, except that the amendments made by section 3(a) shall not be effective with respect to the Commonwealth of Puerto Rico, the Virgin Islands, [or] Guam, *or the Commonwealth of the Northern Mariana Islands.*

* * * * * * *

Excerpts from Public Law 94–120

* * * * * * *

Sec. 4. (a) Section 2003 of the Social Security Act is amended by adding at the end thereof the following new subsection:

"(f) The provisions of section 333 of the Comprehensive Alcohol Abuse and Alcoholism Prevention, Treatment, and Rehabilitation Act of 1970 shall be applicable to services provided by any State pursuant to this title with respect to individuals suffering from drug addiction or alcoholism.".

(b)(1) Section 2002(a)(7) of such Act is amended by adding at the end thereof the following new sentence: "With regard to ending the dependency of individuals who are alcoholics or drug addicts, the entire rehabilitative process for such individuals, including but not limited to initial detoxification, short term residential treatment, and subsequent outpatient counseling and rehabilitative services, whether or not such a process involves more than one provider of services, shall be the basis for determining whether standards imposed by or under subparagraph (A) or (E) of this paragraph have been met.".

(2) Section 2002(a)(11) of such Act is amended by—

(A) striking out "and" at the end of clause (B) thereof,

(B) striking out the period at the end of clause (C) thereof and inserting in lieu of such period "; and", and

(C) adding after clause (C) thereof the following new clause:

"(D) any expenditure for the initial detoxification of an alcoholic or drug dependent individual, for a period not to exceed 7 days, if such detoxification is integral to the further provision of services for which such individual would otherwise be eligible under this title.".

(3) Section 2002(a)(7)(A) of such Act is amended by inserting "(except as provided in paragraph (11)(D))" immediately after "other remedial care".

(4) Section 2002(a)(7)(E) of such Act is amended by inserting "and paragraph (11)(D)" immediately after "paragraph (11)(C)".

[(c) The amendments made by this section shall be effective only for the period beginning October 1, 1975, and ending January 31, 1976; and, on and after February 1, 1976, sections 2002(a)(7), 2002(a)(11), and 2003 of the Social Security Act shall read as they would if such amendments had not been made.]

Excerpts From Public Law 94–331

* * * * * * *

SEC. 2. EXCLUSION FROM INCOME UNDER THE SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) IN GENERAL.—Section 1612(b) of the Social Security Act is amended—

(1) by striking out the word "and" which appears at the end of paragraph (9),

(2) by striking out the period at the end of paragraph (10) and by inserting in lieu thereof "; and",

(3) by inserting the following new paragraph:

"(11) assistance received under the Disaster Relief Act of 1974 or other assistance provided pursuant to a Federal statute on account of a catastrophe which is declared to be a major disaster by the President.".

(b) EFFECTIVE DATE.—The amendments made by this Act shall be applicable only in the case of catastrophes which occur on or after June 1, 1976 [and before December 31, 1976].

* * * * * * *

SEC. 4. AMENDMENT TO SUPPLEMENTAL SECURITY INCOME PROGRAM.

(a) IN GENERAL.—Section 1612(a)(2)(A) of the Social Security Act is amended—

(1) by striking out the word "and" which appears at the end of clause (i) thereof and by inserting a comma in lieu of such word, and

(2) by inserting immediately before the semicolon at the end thereof the following: ", and (iii) support and maintenance shall not be included and the provisions of clause (i) shall not be applicable in the case of any individual (and his eligible spouse, if any) for the period which begins with the month in which such individual (or such individual and his eligible spouse) began to receive support and maintenance while living in a residential facility (including a private household) maintained by another person and ends with the close of the month in which such individual (or such individual and his eligible spouse) ceases to receive support and maintenance while living in such a residential facility (or, if earlier, with the close of the fifth month following the month in which such period began), if, not more than 30 days prior to the date on which such individual (or such individual

and his eligible spouse) began to receive support and maintenance while living in such a residential facility, (I) such individual (or such individual and his eligible spouse) were residing in a household maintained by such individual (or by such individual and others) as his or their own home, (II) there occurred within the area in which such household is located (and while such individual, or such individual and his spouse, were residing in the household referred to in subclass (I)) a catastrophe on account of which the President declared a major disaster to exist therein for purposes of the Disaster Relief Act of 1974, and (III) such individual declares that he (or he and his eligible spouse) ceased to continue living in the household referred to in subclause (II) because of such catastrophe".

(b) EFFECTIVE DATE.—The amendments made by this Act shall be applicable only in the case of catastrophes which occur on or after June 1, 1976 [and before December 31, 1976].

* * * * * * *

Public Law 94-401

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 2002(a) of the Social Security Act is amended by adding at the end thereof the following new paragraph:

"(14)(A) For purposes of paragraphs (5) and (6), an individual shall, at the option of the State, be deemed to be an individual described in paragraph (5)(B) if, because of the geographic area in which any particular service is provided to him, the characteristics of the community to which it is provided, the nature of the service, the conditions (other than income) of eligibility to receive it, or other factors surrounding its provision, the State may reasonably conclude, without individual determinations of eligibility, that substantially all of the persons who receive the service are members of families with a monthly gross income which is not more than 90 per centum of the median income of a family of four in the State, adjusted (in accordance with regulations prescribed by the Secretary) to take into account the size of the family.

"(B) The provisions of subparagraph (A) shall not be applicable to child day care services furnished to any child other than a child of a migratory agricultural worker.".

(b) Section 2000(a)(4) of such Act is amended by adding at the end thereof (after and below subparagraph (E)) the following new sentence:

"In any case in which services are provided to individuals to whom the provisions of paragraph (14) are applied, the proportion of the expenditures for such services which are attributable to individuals described in the preceding sentence may be determined on the basis of generally accepted statistical sampling procedures.".

(c) Section 2002(a)(6) of such Act is amended, in the matter preceding subparagraph (A), by inserting ", family planning services," immediately after "referral service".

(d) The amendments made by this section shall be effective on and after October 1, 1975.

Sec. 2. Effective February 1, 1976, section 7(a)(3) of Public Law 93–647 is amended by striking out "February 1, 1976" and inserting in lieu thereof "October 1, 1977".

Sec. 3. (a) For purposes of title XX of the Social Security Act, the amount of the limitation (imposed by section 2002(a)(2) of such Act) which is applicable to any State for the fiscal period beginning July 1, 1976, and ending September 30, 1976, or which is applicable to any State for the fiscal year ending September 30, 1977, shall be deemed to be equal to whichever of the following is the lesser:

(1) an amount equal to—

(A) 106.4 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal period, or

(B) 108 per centum of the amount of the limitation so imposed (as determined without regard to this section) in the case of such fiscal year ending September 30, 1977, or

(2) an amount equal to (A) 100 per centum of such limitation for such fiscal period or fiscal year (as determined without regard to this section), plus (B) an amount equal to the sum of (i) 75 per centum (in the case of such fiscal period) or 100 per centum (in the case of such fiscal year) of the total amount of expenditures (I) which are made during such fiscal period or year in connection with the provision of any child day care service, and (II) with respect to which payment is authorized to be made to the State under such title for such fiscal period or year, and (ii) the aggregate of the amounts of the grants, made by the State during such fiscal period or year, to which the provisions of subsection (c)(1) are applicable.

(b) The additional Federal funds which become payable to any State for the fiscal period or fiscal year specified in subsection (a) by reason of the provisions of such subsection, *or which become payable to any State for the fiscal year ending September 30, 1978, or any fiscal year thereafter which ends prior to October 1, 1982, by reason of section 201(a) of the Public Assistance Amendments of 1977*, shall, to the maximum extent that the State determines to be feasible, be employed in such a way as to increase the employment of welfare recipients and other low-income persons in jobs related to the provision of child day care services.

(c)(1) Subject to paragraph (2), sums granted by a State to a qualified provider of child day care services (as defined in paragraph (3)(A)) during the fiscal period or fiscal year specified in subsection (a), *or during the fiscal year ending September 30, 1978, or any fiscal year thereafter which ends prior to October 1, 1982*, to assist such provider in meeting its Federal welfare recipient employment incentive expenses (as defined in paragraph (3)(B)) with respect to individuals employed in jobs related to the provision of child day care services in one or more child day care facilities of such provider, shall be deemed, for purposes of title XX of the Social Security Act, to constitute expenditures made by the State, in accordance with the requirements and conditions imposed by such Act, for the provision of services directed at one or more of the goals set forth in clauses (A) through (E) of the first sentence of section 2002(a)(1) of such Act. With respect to sums to which the preceding sentence

is applicable (after application of the provisions of paragraph (2)), the figure "75", as contained in the first sentence of section 2002(a)(1) of such Act, shall be deemed to read "100".

(2) The provisions of paragraph (1) shall not be applicable—

(A) to the amount, if any, by which (*i*) the aggregate of the sums (as described in such paragraph) granted by any State during the fiscal period or fiscal year specified in subsection (a) exceeds the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such fiscal period or year, *or* (*ii*) *the aggregate of the sums (as so described) granted by any State during the fiscal year ending September 30, 1978, or any fiscal year thereafter which ends prior to October 1, 1982, exceeds the amount by which such State's limitation for that fiscal year is increased pursuant to section 201(a) of the Public Assistance Amendments of 1977* or

(B) with respect to any grant made to a particular qualified provider of child day care services to the extent that (as determined by the Secretary) such grant is or will be used—

(i) to pay wages to any employee at an annual rate in excess of $5,000, in the case of a public or nonprofit private provider, or

(ii) to pay wages to any employee at an annual rate in excess of $4,000, or to pay more than 80 per centum of the wages of any employee, in the case of any other provider.

(3) For purposes of this subsection—

(A) the term "qualified provider of child day care services", when used in reference to a recipient of a grant by a State, includes a provider of such services only if, of the total number of children receiving such services from such provider in the facility with respect to which the grant is made, at least 20 per centum thereof have some or all of the costs for the child day care services so furnished to them by such provider paid for under the State's service program conducted pursuant to title XX of the Social Security Act; and

(B) the term "Federal welfare recipient employment expenses" means expenses of a qualified provider of child day care services which constitute Federal welfare recipient employment incentive expenses as defined in section 50B(a)(2) of the Internal Revenue Code of 1954, or which would constitute Federal welfare recipient employment incentive expenses as so defined if the provider were a taxpayer entitled to a credit (with respect to the wages involved) under section 40 of such Code.

(d)(1) In the administration of title XX of the Social Security Act, the figure "75", as contained in the first sentence of section 2002(a)(1) of such Act, shall, subject to paragraph (2), be deemed to read "100" for purposes of applying such sentence to expenditures made by a State for the provision of child day care services during the fiscal year ending September 30, 1977, *and during the fiscal year ending September 30, 1978.*

(2) The total amount of Federal payments which may be paid to any State for *either* such fiscal year under title XX of the Social Security Act at the rate specified in paragraph (1) shall not exceed an amount equal to the excess (if any) of—

[(A) the amount by which such State's limitation (as referred to in subsection (a)) is increased pursuant to such subsection for such year, over]

(A) the amount by which the limitation (imposed by section 2002(a)(2) of such Act) which is applicable to such State for such fiscal year is increased pursuant to subsection (a) or pursuant to section 201(a) of the Public Assistance Amendments of 1977, over

(B) the aggregate of the amounts of the grants, made by the State during such year, to which the provisions of subsection (c)(1) are applicable.

Sec. 4. (a) Section 50A(a) of the Internal Revenue Code of 1954 (relating to amount of credit for work incentive program expenses) is amended—

(1) by adding at the end of paragraph (2) the following new sentence: "The preceding sentence shall not apply to so much of the credit allowed by section 40 as is attributable to Federal welfare recipient employment incentive expenses described in subsection (a)(6)(B).", and

(2) by striking out paragraph (6) and inserting in lieu thereof the following:

"(6) LIMITATION WITH RESPECT TO CERTAIN ELIGIBLE EMPLOYEES.—

"(A) NONBUSINESS ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are not performed in connection with a trade or business of the taxpayer shall not exceed $1,000.

"(B) CHILD DAY CARE SERVICES ELIGIBLE EMPLOYEES.—Notwithstanding paragraph (1), the credit allowed by section 40 with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer during the taxable year to an eligible employee whose services are performed in connection with a child day care services program, conducted by the taxpayer, shall not exceed $1,000.".

(b) Section 50B(a)(2) of such Code (relating to definitions; special rules) is amended to read as follows:

"(2) DEFINITIONS.—For purposes of this section, the term 'Federal welfare recipient employment incentive expenses' means the amount of wages paid or incurred by the taxpayer for services rendered to the taxpayer by an eligible employee—

"(A) Before July 1, 1976, or

"(B) in the case of an eligible employee whose services are performed in connection with a child day care services program of the taxpayer, before October 1, 1977.".

(c) The amendments made by this section with respect to Federal welfare recipient employment incentive expenses paid or incurred by the taxpayer to an eligible employee whose services are performed in connection with a child day care services program of the taxpayer shall apply to such expenses paid or incurred by a taxpayer to an eligible employee whom such taxpayer hires after the date of the enactment of this Act.

Sec. 5. (a) Section 2002(a)(9)(A)(ii) of the Social Security Act is amended—

(1) by striking out "and" at the end of clause (II), and

(2) by adding after the comma at the end of clause (III) the following: "(IV) the State agency may waive the staffing standards otherwise applicable in the case of a day care center or group day care home in which not more than 20 per centum of the children in the facility (or, in the case of a day care center, not more than 5 children in the center) are children whose care is being paid for (wholly or in part) from funds made available to the State under this title, if such agency finds that it is not feasible to furnish day care for the children, whose care is so paid for, in a day care facility which complies with such staffing standards, and if the day care facility providing care for such children complies with applicable State standards, and (V) in determining whether applicable staffing standards are met in the case of day care provided in a family day care home, the number of children being cared for in such home shall include a child of the mother who is operating the home only if such child is under age 6,".

(b) The amendments made by subsection (a) shall, insofar as such amendments add a new clause (V) to section 2002(a)(9)(A)(ii) of the Social Security Act, be effective for the period beginning October 1, 1975, and ending [September 30, 1977] *September 30, 1982;* and on and after [October 1, 1977] *October 1, 1982*, section 2002(a)(9)(A)(ii) of the Social Security Act shall read as it would if such amendments had not been made.

Sec. 6. Effective February 1, 1976, section 4(c) of Public Law 94–120 is amended by striking out "January 31, 1976" and "February 1, 1976" and inserting in lieu thereof "September 30, 1977" and "October 1, 1977" respectively.

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Calendar No. 528

95TH CONGRESS
1st Session

SENATE

REPORT
No. 95-574

STATUS OF CERTAIN OKLAHOMA INDIAN TRIBES

NOVEMBER 1 (legislative day, OCTOBER 29), 1977.—Ordered to be printed

Mr. ABOUREZK, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany S. 661]

The Select Committee on Indian Affairs, to which was referred the bill (S. 661) to restore Federal recognition of certain Indian tribes, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

1. Page 1, lines 3 and 4—Delete the following:

> That this Act may be cited as the Indian Tribal Restoration Act of 1976.

2. Insert the following new subparagraph (3) after line 10 on page 3:

> The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who are direct lineal descendants of those Modocs removed to Indian Territory (now Oklahoma) in November, 1873, and who did not return to Klamath, Oregon, pursuant to the Act of March 9, 1909 (35 Stat. 751), as determined by the Secretary, and the descendants of such Indians who otherwise meet the membership requirements adopted by the Tribe.

PURPOSE OF THE MEASURE

The purpose of S. 661 is to extend Federal recognition to four (4) Oklahoma Tribes which were adversely affected by the termination policy adopted by the United States in 1953. This bill would enable the Modoc, Wyandotte, Peoria, and Ottawa Tribes of Oklahoma to become eligible for Federal services and assistance provided to federally recognized tribes and their members.

Need

During the termination era, the Department of Interior was directed to establish a priority listing of tribes for whom Federal services were to be ended. While there is no record to indicate why these four (4) Oklahoma Tribes were selected for termination, it is the present position of that Department that these tribes were among the politically weaker tribes who were not able to effectively resist the termination policy. No hearings were ever held on the legislation providing for the termination of these Oklahoma Tribes, and while legislative reports on the termination Acts indicate tribal support for the legislation, present tribal leaders contend they were coerced by the Interior Department into accepting termination.

As a result of their termination Acts, these four (4) Oklahoma Tribes have been ineligible for the services and assistance provided to Federally recognized tribes and their members. S. 661 would enable these tribes to participate in Federal, State, and local Indian programs.

S. 661 is supported by the Governor of Oklahoma, Oklahoma Congressional and State representatives, other Oklahoma Tribes, and the local units of government.

Legislative History

A similar bill, S. 2968, was introduced by Senators Bartlett, Bellmon, and Hatfield in the 94th Congress, but no action was taken by the Senate.

S. 661 was introduced by Senators Bartlett and Bellmon on February 7, 1977. A hearing was held on the proposed measure before the Senate Select Committee on Indian Affairs on September 27, 1977. Testimony was received from the Interior Department and several tribal witnesses, all of whom supported enactment of S. 661.

A similar measure, H.R. 2497, was introduced by Congressman Risenhoover on January 26, 1977. A hearing was held before the Subcommittee on Indian Affairs and Public Lands on July 14, 1977. At that hearing, representatives from the Interior Department testified in favor of the bill with amendments.

Committee Recommendations and Tabulations of Votes

The Senate Select Committee on Indian Affairs, in open business session on October 7, 1977, by unanimous vote of a quorum present, recommends that the Senate pass S. 661 with amendments.

Committee Amendments

S. 661 has two amendments. The first strikes, as unnecessary, the provision citing this Act as the "Indian Tribal Restoration Act of 1976."

The second amendment describes the membership requirements of the Modoc Tribe of Oklahoma. This provision has been added to the Act in order to clarify the distinction between the Oregon and Oklahoma Modocs.

Section-by-Section Analysis

Subsection 2(a) extends or confirms Federal recognition to the Wyandottes, Ottawas, and Peoria Tribes of Oklahoma. Subsection 3(a)(1) provides for recognition of the Modoc Tribe of Oklahoma.

Subsection 2(b) repeals the Acts which provided for the termination of the Wyandotte, Ottawa, and Peoria Tribes.

Subsection 2(c) reinstates all rights and privileges of each of the Tribes described in subsection (a) which may have been lost pursuant to the Acts providing for their termination. This subsection also expressly preserves the Tribes' present rights and privileges.

Subsection 2(d) provides that this Act shall not alter any contract or property rights, including existing fishing rights, or any tax obligation already levied.

Subsection 3(a)(1) provides for recognition of the Modoc Indian Tribe of Oklahoma and for its organization under the Oklahoma Indian Welfare Act of June 26, 1936 (25 U.S.C. § 503).

Subsection 3(a)(2) states that the 1956 Termination Act is inapplicable to the Modoc Tribe of Oklahoma, except for their right to share in the proceeds of any claim against the United States.

Subsection 3(a)(3) has been added to the bill at the suggestion of the Interior Department and the Modoc Tribe. The purpose of this addition is to clarify the distinction between the Oregon Modocs, who are not addressed in this bill, and the Oklahoma Modocs.

Subsection 3(b) requires the Secretary to promptly assist the Ottawa and Peoria Tribes in their reorganization under the Oklahoma Indian Welfare Act.

Subsection 3(c) confirms the validity of the organization of the Wyandotte Tribe under the Oklahoma Indian Welfare Act. As mentioned earlier, inability of the Bureau of Indian Affairs to dispose of a tribal burial tract has prevented the termination of the Wyandotte Tribe from becoming effective.

Subsection 4(a) and subsection 4(b) refer to the Act of January 2, 1975, which conveyed certain Government-owned land to the eight (8) tribes represented in the Inter-Tribal Council, Incorporated, of Miami, Oklahoma. That Act contains provisions which prevent these four (4) tribes from sharing any rights or interests in the conveyed land until they are no longer subject to the termination Acts affecting them. Subsection 4(a) of this Act states that enactment of this bill meets the requirement of that provision of the 1975 Act which refers to the Wyandotte, Ottawa, and Peoria Tribes, thereby allowing them to share in rights to the conveyed land.

Subsection 4(b) refers to the Modoc Tribe, thereby allowing it to share in rights to the conveyed land.

Subsection 4(c) requires the Modoc Tribe to publish notice of their organization in the Federal Register, such notice to include certain specified statements.

Section 5 makes it clear that these four (4) Oklahoma Tribes shall be eligible for participation in the programs and services provided by the United States to Indians because of their status as Indians. Such programs and services shall include but not be limited to those authorized by the Snyder Act of November 2, 1921, and those included in hospital and medical care provisions of the Act of August 16, 1957.

Congressional Budget Office Cost Estimate

Congressional Budget Office,
U.S. Congress,
Washington, D.C., October 19, 1977.

Hon. James Abourezk,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed S. 661, the Indian Tribal Restoration Act of 1977, a bill which restores Federal recognition to the Wyandotte, Ottawa, Peoria, and Modoc Indian tribes, as ordered reported by the Senate Select Committee on Indian Affairs, October 7, 1977.

Based on this review, it is estimated that the Government will incur a cost of approximately $15,000 to enroll the members of the specified tribes. In addition, this bill would make the tribes eligible for benefits under a number of discretionary federal programs. Thus, the relevant Federal agencies can be expected to seek additional funds in order to provide such benefits.

Should the committee so desire, we would be pleased to provide further details on this cost estimate.

Sincerely,

Alice M. Rivlin, *Director.*

Executive Communications

The pertinent legislative report received by the committee from the Department of Interior is set forth below:

U.S. Department of the Interior,
Office of the Secretary,
Washington, D.C., September 21, 1977.

Hon. James Abourezk,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, D.C.

Dear Mr. Chairman: This responds to your request for our views on S. 661, a bill "To restore Federal recognition of certain Indian tribes, and for other purposes."

We recommend that the bill be enacted if amended as suggested herein.

S. 661 would reinstate the Modoc, Wyandotte, Peoria, and Ottawa Indian Tribes of Oklahoma to Federal recognition and supervision, and entitle such tribes to all rights and privileges accorded to federally recognized Indian tribes under any Federal treaty or statute. The bill would also repeal the provisions of law relating to the termination of these four tribes.

The Act of August 13, 1954 (68 Stat. 718; 25 U.S.C. 564), directed that the Federal services to and trust relationship with the Modoc Tribe (and the other groups comprising the Klamath Tribe) be terminated within seven years. The termination became effective on August 18, 1956.

The act of August 1, 1956 (70 Stat. 893; 25 U.S.C. 791), provided for termination of the Federal services to and trust relationship with the

Wyandotte Tribe upon the transfer or disposition of all tribal assets. Termination of the Wyandotte Tribe has not become effective because the Bureau of Indian Affairs has not disposed of a tribal burial tract under the terms of section 5(c) of the Act (25 U.S.C. 795(c)).

The act of August 2, 1956 (70 Stat. 937; 25 U.S.C. 821), provided for the termination of the Federal services to and trust relationship with the Peoria Tribe to be effective three years afer enactment, except that the Tribe's charter and the Secretary of the Interior's powers and responsibilities under the Tribe's constitution and bylaws were to continue until final adjudication of all the Tribe's claims pending before the Indian Claims Commission or the Court of Claims. The last of such claims are dockets number 313, 314–A, 314–B and 338 pending before the Indian Claims Commission.

The act of August 3, 1956 (70 Stat. 963; 25 U.S.C. 841), provided for termination of the Federal services to and the trust relationship with the Ottawa Tribe to be executive three years after enactment.

The Wyandotte, Peoria, Ottawa, and Modoc Tribes of Oklahoma were terminated as a result of the termination policy set out in H. Con. Res. 108 of the 83d Congress (Act of August 1, 1953, 67 Stat. B 132). Legislation providing for the termination of the Wyandottes, Peorias, and Ottawas was enacted on three consecutive days in August 1956. The Modoc Indians of Oklahoma were terminated that same month pursuant to the 1954 Act that terminated the Klamath Tribe of Oregon. The Modoc Tribe of Oklahoma had originally been part of the Oregon Modoc Tribe but in 1873 they were placed on land which later became part of the State of Oklahoma. The Modocs of Oklahoma are still part of the Oregon Modoc Tribe, which was incorporated into the Klamath Tribe.

Pursuant to H. Con. Res. 108, the Department of the Interior was directed to establish a priority listing of tribes for whom Federal services were to be ended. Some of the criteria announced by the Department to indicate readiness for termination were: (1) The degree of assimilation of a tribe; (2) the economic condition of the tribe indicating a reasonable possibility of livelihood through use of available resources; (3) willingness by the tribe to dispense with Federal aid and guidance; and (4) a willingness and ability of States and communities to provide public services. There is no record indicating that these four Oklahoma tribes met these criteria any more than those tribes who were not terminated. In our judgment, they were among the politically weaker tribes who were not able to effectively resist termination. It is indicative of the lack of genuine concern shown for their readiness for termination that no hearings were held with regard to enactment of legislation providing for their termination.

All four tribes have adopted resolutions requesting that full Federal recognition be restored to them. The tribes allege that they were coerced by Interior Department representatives who were at that time encouraging tribes to go along with the termination policy. The Peoria and Ottawa Tribes state that they accepted termination on the understanding that their tribal claims before the Indian Claims Commission would be expeditiously settled in exchange for termination. These tribes have further stated that the adult members of the tribes were never given the chance to vote on the termination proposition.

As a result of termination, all four tribes have been hindered in their development by inability to plan for the future. They have lost eligibility to participate in Federal programs for federally recognized Indians. These programs relate to health, education and economic development. The social and economic conditions of these tribes are currently below the poverty level of comparable communities in their surrounding area.

Our support for restoration for these four tribes is based upon the finding that they meet the following criteria: there exists an ongoing, identifiable community of Indians who are members of the formerly recognized tribes or who are their descendents; their communities are located in the vicinity of the former reservations; there exists an available land base which could be taken in trust and proclaimed a reservation; they have continued to perform self-governing functions, either through elected representatives or in meetings of their general membership; there is widespread use of their aboriginal language, customs and culture; there has been some deterioration in their socio-economic conditions since termination; and their conditions are more severe than in other adjacent rural areas or in comparable areas within the State.

S. 661 is designed to restore full Federal recognition and services to these four tribes. Our draft bill does not take any tribal or individually owned land off tax rolls or transfer any land titles to the Federal Government in trust for the tribes or their members. The bill does not address the status of the Modoc Indians of Oregon, but would provide for organization of the Oklahoma Modocs under the Oklahoma Indian Welfare Act (49 Stat. 1967). To clarify this distinction between the Oregon and Oklahoma Modocs, we recommend that the following new subparagraph (3) be inserted after line 10 on page 3: "(3) The Modoc Indian Tribe of Oklahoma shall consist of those Modoc Indians who were alive and whose permanent residences were in Oklahoma on August 13, 1954, as determined by the Secretary, and the descendants of such Indians who otherwise meet the membership requirements adopted by the Tribe."

We estimate that BIA program costs under the bill would be approximately $100,000 in the first year after enactment. Appropriations for these programs are authorized under existing law.

Restoration for these four tribes carries the support of the Governor of Oklahoma, officials of the respective communities and the city of Miami, Oklahoma.

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely yours,

FORREST GERARD,
Assistant Secretary for Indian Affairs.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, the committee notes that no changes in existing law are made by the bill S. 661.

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Calendar No. 529

95TH CONGRESS
1st Session

SENATE

REPORT
No. 95-575

PAYMENT OF CHARGES TO MIDDLE RIO GRANDE CONSERVANCY DISTRICT

NOVEMBER 1 (legislative day, OCTOBER 29), 1977.—Ordered to be printed

Mr. ABOUREZK, from the Select Committee on Indian Affairs, submitted the following

REPORT

[To accompany H.R. 2719]

The Select Committee on Indian Affairs, to which was referred the bill (H.R. 2719) to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE MEASURE

The act of August 27, 1935 (49 Stat. 887) authorized the Secretary of the Interior to enter into a contract with the Middle Rio Grande Conservancy District for payment of operation and maintenance charges on Pueblo Indian lands served by that district. H.R. 2719 would eliminate the expiration clause of that act, as amended, and would remove the need for subsequent legislation to extend the Secretary's authority to contract with the district on behalf of the Pueblos.

For 40 years, the United States has paid the operation and maintenance charges assessed against Indian lands located within the external boundaries of the conservancy district. The district's non-Indian water users would have to maintain these costs should they be discontinued by the United States.

BACKGROUND

The Middle Rio Grande Conservancy District, established in 1927, is a political subdivision of the State of New Mexico created for the purpose of constructing and operating a modern irrigation and flood control project. Located within the external boundaries of the district

are 6 Indian Pueblo groups whose lands were included in the district's plans in order to provide project benefits to the Indians.

Because the Indians were unable to pay the charges assessed against their lands, Congress passed the above-mentioned act of August 25, 1935, authorizing the Secretary of the Interior to contract with the conservancy district for payment of these costs. Congressional appropriations cover only newly reclaimed Pueblo lands and lands purchased by the Government for the Pueblos. No charges were assessed against Pueblo lands adequately irrigated before the project. The total amount paid by the United States from 1935 through 1973 is $1,193,179.27, with current assessments totaling $80,000 per year.

The act of August 27, 1935, only covered a 6-year period. Subsequently, additional legislation and contracts with the district enabled the Interior Department to continue these payments through 1974, when the last contract expired.

Legislative History

A companion bill, S. 1789, was introduced by Senator Abourezk on June 30, 1977. A hearing was held before the Senate Select Committee on Indian Affairs on September 29, 1977, and testimony was received from representatives from the administration who expressed their support for the bill.

Committee Recommendations and Tabulation of Votes

The Senate Select Committee on Indian Affairs, in open business session on October 7, 1977, with a quorum present unanimously recommended that the Senate adopt H.R. 2719, which is identical to the Senate bill S. 1789 with the exception of one technical amendment adopted by the House of Representatives.

Committee Amendments

There were no amendments to the proposed measure.

Congressional Budget Office Cost Estimate

October 12, 1977.

1. Bill No. H.R. 2719

2. Bill title: A bill to authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands.

3. Bill status: As ordered reported by the Senate Select Committee on Indian Affairs, October 7, 1977.

4. Bill purpose: The bill extends the authorization for the Secretary of the Interior to pay yearly operation and maintenance charges for irrigation facilities on certain Pueblo Indian lands.

5. Cost estimate:

Estimated cost:	*Thousands*
Fiscal year 1978	$87
Fiscal year 1979	94
Fiscal year 1980	101
Fiscal year 1981	107
Fiscal year 1982	114

The costs of this bill fall within budget function 450.

6. Basis for estimate: In 1977, charges assessable to Indians are approximately $80,000. Although the bill would authorize payments retroactive to 1975, the operation and maintenance costs for this period through 1977 have already been routinely appropriated to the Bureau of Indian Affairs, though the funds have not been disbursed. Thus, the first outlay due to the enactment of this bill falls in fiscal year 1978. Because the majority of the costs are for salaries of equipment operators, outlays have been inflated from the fiscal year 1977 level for future years. The actual yearly costs of maintenance of the irrigation facilities will vary with weather conditions.

7. Estimate comparison: None

8. Previous CBO estimate: On July 27, 1977, CBO prepared a cost estimate for H.R. 2719, as ordered reported by the House Committee on Interior and Insular Affairs, June 27, 1977. The costs of this bill remain the same.

9. Estimate prepared by: Mark Berkman (225–7760).

10. Estimate approved by:

C. G. NUCKOLS
(For James L. Blum,
Assistant Director for Budget Analysis).

EXECUTIVE COMMUNICATIONS

The pertinent legislative report received by the Committee from the Department of the Interior is set forth below:

U.S. DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D.C., August 1, 1977.

Hon. JAMES ABOUREZK,
Chairman, Select Committee on Indian Affairs,
U.S. Senate, Washington, D.C.

DEAR MR. CHAIRMAN: This responds to your request for the views of this Department with respect to a bill, S. 1789, "To authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexcio for the payment of operation and maintenance charges on certain Pueblo Indian lands."

We recommend that the bill be enacted.

The Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico, was created in 1927 with the objective of planning, constructing, and operating a modern irrigation and flood control project. Within the external boundaries of this district are six Pueblo Indian groups that have diverted water from the Rio Grande on an uninterrupted basis since prehistoric times. These Pueblo lands were included along with the non-Indian lands in the plans for the district in order to provide project benefits to the Indians.

At the inception of this project, the Indians were afraid that they would be unable to pay the assessments against their land for construction costs and for operation and maintenance. With the average sized farm being less than 10 acres, no significant commercial farming could be undertaken. Practically everything raised was consumed within the family. In order to go on with the project and to tie in the Indian land, Congress appropriated the money for the Indians' share

of the costs of construction, and has been regularly appropriating money to cover the Indians' proportion of the annual cost of operation and maintenance.

The Federal appropriations have covered only charges assessed against the "newly reclaimed" Pueblo lands and the lands purchased by the United States for the Pueblos. The Pueblo lands that were adequately irrigated before the project was constructed were not subject to assessment. The "newly reclaimed" Pueblo lands included 11,074.40 acres; the purchased lands included 874.059 acres; and the Pueblo lands that were adequately irrigated when the project was constructed included 8,847 acres. The total acreage benefited by the project, including both Indian and non-Indian land, is approximately 117,000 acres.

The act of August 27, 1935 (49 Stat. 887), authorized the Secretary of the Interior to enter into an agreement with the Middle Rio Grande Conservancy District to pay operation and maintenance charges assessed against the newly reclaimed Indian lands and purchased lands for a period not to exceed 5 years. Under this act two agreements were made, one dated September 4, 1936, and the other dated April 8, 1938, which covered the years 1937, 1938, and 1939.

Through a series of additional legislative enactments and contracts with the district, the Department continued these arrangements through 1974, after which the legislative authority and the most recent agreement lapsed.

The proposed bill would eliminate the expiration clause of the act of August 27, 1935 (49 Stat. 887), as amended, and would preclude the need for subsequent legislation to extend the Secretary's authority to contract in behalf of the six Pueblo Middle Rio Grande Indian Tribes for payment of operation and maintenance charges on lands served by the Middle Rio Grande Conservancy District. The proposed bill would simplify administrative procedures required by continuing contract renewals. Fiscal and budgetary control for these funds is achieved through the budgetary and appropriation process and not by the contract.

The last previous contract of the Secretary, through the Bureau of Indian Affairs, expired December 31, 1974. We assume that the proposed bill, S. 1789, would cover retroactively the period from January 1, 1975 to the time it becomes law.

As of this date the Pueblo Indians are still farming on a subsistence basis (crops consumed within the family and little cash income from farming), with farms averaging between 5 acres and 20 acres. The funds paid by the United States to the conservancy district are for the purpose of operating and maintaining district irrigation facilities. The Indians themselves, however, operate and maintain irrigation distribution systems within the Pueblos. The justification for enactment of a new authorizing statute is just as strong today as it was when the act of August 27, 1935 was passed.

The operation and maintenance charges paid by the United States to the conservancy district through 1973 total $1,193,179.27 for the entire 38 year period an average of a little over $30,000 per year; current charges assessable to Indians are approximately $80,000 per year. The district has carried these charges for the past 2 years in a deficit account hopeful of reimbursement. The total construction

charges assessed against the Pueblo lands were $1,357,354.36, and that entire sum has been cancelled under the Leavitt Act (25 U.S.C. 386a).

For 40 years the district has depended on appropriations from Congress to cover the operation and maintenance costs charged against Indian lands. If the United States should discontinue these payments, the district's non-Indian interests would reluctantly have to bear the costs assigned to Indian land. Such a result would be unfair and serious friction between Indian and non-Indian farmers could result.

We therefore urge enactment of S. 1789 which would enable the continuation of the sensible and equitable arrangements which were maintained for 40 years.

We propose one technical change. In line 3 of the bill, we would delete the words "the provisions of," so that the bill reads "That the Act of August 27, 1935 . . . is further amended by . . .".

The Office of Management and Budget has advised that there is no objection to the presentation of this report from the standpoint of the Administration's program.

Sincerely,

CECIL D. ANDRUS, *Secretary.*

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill H.R. 2719, as ordered reported, are shown as follows:

AN ACT To authorize the Secretary of the Interior to contract with the Middle Rio Grande Conservancy District of New Mexico for the payment of operation and maintenance charges on certain Pueblo Indian lands

That the Secretary of the Interior be, and he is hereby, authorized to enter into an agreement with Middle Rio Grande Conservancy District, a political subdivision of the State of New Mexico, to provide for operation and maintenance on newly reclaimed Pueblo Indian lands.

* * * * * * *

and there is hereby authorized to be appropriated annually [for a period not to exceed five years,] such amount as may be necessary to enable the Secretary of the Interior to pay the cost to Middle Rio Grande Conservancy District of such operation and maintenance on said newly reclaimed Pueblo Indian lands as may be irrigable during any particular year.

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Calendar No. 532

95TH CONGRESS
1st Session

SENATE

REPORT
No. 95-578

REDWOOD NATIONAL PARK

NOVEMBER 2 (legislative day, NOVEMBER 1), 1977.—Ordered to be printed

Mr. MAGNUSON (for Mr. MCCLELLAN), from the Committee on Appropriations, submitted the following

REPORT

[To accompany S. 1976]

The Committee on Appropriations, to which was sequentially referred the bill (S. 1976) to amend the act of October 2, 1968, an act to establish a Redwood National Park in the State of California, and for other purposes, as reported by the Committee on Energy and Natural Resources, having considered the same, reports thereon without recommendation.

BACKGROUND

The bill proposes a major, 48,000-acre expansion of the Redwood National Park to preserve additional stands of the coastal redwoods of northern California and to manage adjoining watersheds that have an impact on these "tall trees" that are the world's loftiest. Like the first redwoods bill, this measure contains a "legislative taking." Title to the additional acreage is vested in the United States upon enactment, and the full faith and credit of the United States is pledged to full payment of just compensation for the land. It is anticipated that the Federal courts will eventually rule on the costs of most of these acquisitions.

S. 1976 also carries authority, subject to appropriations, for the Secretary of the Interior to purchase and convey rights-of-way and under certain conditions to acquire lands adjacent to the expanded park boundary. The bill authorizes the Secretary in addition to undertake land rehabilitation measures in areas affecting park resources, and related measures to enhance job opportunities in the region.

APPROPRIATIONS JURISDICTION

Because of the legislative taking aspect of the bill and the immediate obligation it imposes upon the United States, S. 1976 can be considered

to contain "new spending authority" as defined in section 401 of the Congressional Budget and Impoundment Control Act of 1974 (Public Law 93–344).

S. 1976 was originally reported from the Committee on Energy and Natural Resources on October 21, 1977, and sequentially referred to the Committee on Appropriations pursuant to provisions of the Congressional Budget Act. Section 404 of that act assigns jurisdiction for new spending authority to the Committee on Appropriations.

The committee considers its jurisdiction in the case of S. 1976 limited to the spending issues involved in the legislative taking. It has not attempted to judge the goals of the bill or to question the need to expand Federal control over redwood resources except as they affect new spending authority.

TIMING

A legislative taking creates several complex issues, particularly since S. 1976 is the first bill to carry such a provision under controls instituted by the Congressional Budget Act.

The committee is aware, for example, that enactment of S. 1976 or similar legislation containing a legislative taking commits the Government to a heavy obligation over which it will have no effective cost control in future years. However, the committee is also aware of time constraints imposed by the lateness of the legislative session. Its decision to report the bill without recommendation was made in order to put the bill before the Senate for the earliest possible consideration. In essence, the need to protect redwood resources from ongoing logging operations is considered to be an issue that overrides the need for a time-consuming review of the spending issue.

SPENDING ISSUES

Although it is reporting the bill without recommendation, the committee feels it should bring the attention of the Senate the nature and extent of the obligation that enactment of S. 1976 will incur. A legislative taking, as noted earlier, vests "all right, title, and interest in, and the right to immediate possession of," all lands covered by the bill. Section 8 of the bill further provides:

> The Congress further acknowledges and directs that the full faith and credit of the United States is pledged to the prompt payment of just compensation as provided for by the fifth amendment to the Constitution of the United States for those lands and properties taken by this act, through utilization of funds deposited in the Land and Water Conservation Fund Account.

Immediate possession of private property, backed by the full faith and credit of the United States creates, as the committee sees it, a full *and immediate* obligation for just compensation. Funds subsequently provided by the Congress will serve only to liquidate that obligation.

The estimate of the Department of the Interior that acquisition will cost $359 million is not based on appraisals and can be considered preliminary at best. The processes of claims adjudication coupled with inflation are, in the committee's judgment, likely to increase costs well beyond that figure.

It should be noted here that the original Redwood National Park Act of 1968 was also a legislative taking. The estimate then was that the acquisition of some 58,000 acres—even with 30,000 acres of it donated by the State of California—would cost $92 million. So far, these costs have exceeded $170 million, and an additional $100 million in claims are still pending.

There will be no effective congressional control of the costs of the proposed expansion under a legislative taking because of the guarantees of the fifth amendment to the Constitution. Thus, any funding limitation written into the bill would have no real force. This point also has been demonstrated in the 1968 legislative taking which carried a $92 million limitation. Congress cannot realistically pledge the full faith and credit of the United States on the one hand and limit appropriations on the other. Only through a modification of the legislative taking provision at the outset could Congress reduce the overall obligation.

It should be noted further that the bill provides for acquisition costs to be borne by moneys deposited to the Land and Water Conservation Fund. This fund, financed primarily by oil and gas receipts from Outer Continental Shelf leases, currently finances the bulk of Federal recreation land acquisition as well as providing assistance to the States for recreation development. The Redwood National Park expansion, then, will substantially encumber the fund and disrupt normal spending priorities.

COMMITTEE VIEWS ON LEGISLATIVE TAKINGS

The committee could not support a legislative taking under normal circumstances and does not wish its action on S. 1976 to serve as precedent—or encouragement—for further legislative taking measures. With proper planning based on well-established priorities, there is no reason in the committee's view to abandon the normal legislative process under which proposed acquisitions are first authorized and then financed through individual appropriations. This process permits careful review of acquisition proposals as they mature and retains congressional control over the nature, extent, and timing of such acquisitions.

OTHER COSTS

The bill provides authority for other substantial costs associated with the expansion and protection of Redwood National Park and its resources. There is authority for land acquisition outside the park boundary and for extensive land and watershed rehabilitation. These costs, however, are not involved in the legislative taking and will remain subject to congressional review and control of appropriations in future years.

Indirectly, however, these additional authorities will create a moral commitment, and the cost, when coupled with the legislative taking, will be considerable. These costs must be carefully considered by the Senate when weighing the advisability of nearly doubling the park acreage.

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95TH CONGRESS
1st Session

SENATE

Calendar No. 533

REPORT
No. 95-579

ACCOMMODATIONS FOR JUDGES OF THE COURT OF APPEALS

NOVEMBER 2, 1977.—Ordered to be printed

Mr. DECONCINI, from the Committee on the Judiciary, submitted the following

REPORT

[Including the cost estimate of the Congressional Budget Office]

[To accompany H.R. 2770]

The Committee on the Judiciary, to whom was referred the bill (H.R. 2770) to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

The committee, with minor deletions and technical changes, adopts the House report as follows:

PURPOSE OF THE BILL

"It is the purpose of the proposed bills to amend title 28 of the United States Code to provide accommodations for judges of the U.S. courts of appeals at places other than those where regular terms of court are authorized by law to be held, if (1) such accommodations have been approved as necessary by the judicial council for the appropriate circuit, and (2) space is available without cost to the Government.

Such an amendment would deter the proliferation of additional statutorily designated places for holding district court, eliminate one factor now contributing to inefficient utilization of judicial resources, and alleviate an inconvenience for circuit court judges which the Congress never intended to impose upon them when it last amended section 142 of title 28 in 1962.[1]

BACKGROUND

At present all U.S. courts of appeals sit in "principle" locations, and several occasionally sit in one or more "additional" locations within

[1] Act of Oct. 9, 1962, Public Law No. 87-764, 76 Stat. 762.

their circuits, for the purpose of hearing oral arguments. In most instances, both the "principle" and "additional" locations have been statutorily designed by the Congress, in 28 U.S.C. § 48, as places at which "terms or sessions of courts of appeals shall be held annually." In certain instances, however, "terms or sessions" may be held, again in accordance with 28 U.S.C. § 48, "at such other places within the respective circuits as may be designated by rule of the court." In very rare instances, under yet another provision of 28 U.S.C. § 48, which states that: "Each court of appeals may hold special terms at any place within its circuit," oral arguments may be heard at a location which is not designated by either statute or court rule. Such "special terms" are usually held as a courtesy or convenience for local or State governments.

Today there are 97 "active" circuit judges and 43 "senior" circuit judges who comprise the "pool" from which panels of 3 judges are drawn to sit. Occasionally a district court judge, in either active or senior status, is invited to sit with two circuit judges on such a panel.

When circuit judges are not sitting on such panels, or en banc, however, they work "in chambers" in quarters located in the communities in which they actually reside. In fact, although "non-resident offices" are available for circuit judges at the "principle" places where courts of appeals sit for purposes of oral argument, full facilities and accommodations for a circuit court judge and his staff have for years been provided only at the location where the judge normally performs his "in chambers" work. Because most circuit court judges normally perform their "in chambers" work in the communities in which they reside, their facilities and accommodations at such locations have been traditionally referred to as "resident chambers."

When "the Judicial Code" was "recodified" in 1948, section 142 of title 28, United States Code, was enacted as follows:

> § 142. Accommodations at places for holding court.—Court shall be held only at places where Federal quarters and accommodations are furnished without cost to the United States.[2]

In 1962, however, that section was amended by adding to the language cited, supra, the following sentence:

> The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available *at places where regular terms of court are authorized by law to be held*, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit.[3]

In explaining the purpose of that 1962 amendment the House Judiciary Committee noted that the 1948 language, standing alone:

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[2] Public Law No. 773, 80th Cong., 2d sess., ch. 646 (June 25, 1948), 62 Stat 898.
[3] Note 1, *supra* (italic added).

> . . . has the effect of precluding the use of Federal funds for the purpose of providing facilities *for the U.S. district courts* by new construction, remodeling of existing Federal buildings, or otherwise, at locations where court facilities have not previously been provided in Federal buildings. Consequently, it has been necessary to obtain a waiver of the provisions of section 142 by specific legislative action in each instance to permit the provision of court facilities at such locations.[4]

Citing recent legislation creating additional federal judgeships and the resulting need for "improved and additional court space," the committee noted that:

> Enactment of this legislation would eliminate the delays now caused by the necessity for obtaining special legislation with respect to those locations where section 142 applies, and permit discontinuance of the undesirable practice of securing such individual waivers, and would permit the provision and development of more satisfactory court facilities, with improved operation of the courts.[5]

In essence, the original 1948 legislation, designed to limit the number of places where district court "shall be held" to those locations where quarters and accommodations then existed, was amended to both (1) accommodate a growing court system and (2) eliminate the "undesirable practice" of the judiciary having to seek "specific legislative action in each instance" to overcome "the effect of precluding the use of Federal funds for the purpose of providing facilities for the U.S. district courts."

That legislative history would appear to justify the conclusion that 28 U.S.C. § 142 is a provision applicable to district courts only. Given the section's placement in chapter 5 of title 28, that chapter which is clearly designed to statutorily govern organization of the district courts, and the legislative history discussed supra, a sound argument might be made that Congress at no time intended section 142 to be applied to circuit courts, which are organized under chapter 3 of title 28. In 1948 and 1962, the practice which now is followed by providing circuit court judges with "resident chambers" in their home communities prevailed nationwide. Had that practice been a matter of concern to Congress, appropriate language could have been added to section 48 of chapter 3 of title 28, that section which governs places where circuit court "shall be held."[6] The absence of such language would seem to justify a finding that section 142 should not be deemed applicable to the establishment of "resident chambers" for courts of appeals judges. That finding is impeded, however, by a provision in the 1948 recodification legislation, which states that:

> No inference of a legislative construction is to be drawn by reason of the chapter in Title 28 * * * in which any section is placed, nor by reason of the catchlines used in such title.[7]

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[4] H.R. Rept. No. 2340, 87th Cong. 2d sess. 2 (1962) (italic added).
[5] Id.
[6] See text *supra*, at 1–2.
[7] See Public Law No. 773, 80th Cong., 2d Sess., § 33 (June 25, 1948), 62 Stat. 991.

Thus, today, if a community in which a circuit court judge resides is not a place "where regular terms of court are authorized by law to be held," either under chapter 3 or chapter 5 of title 28, section 142 precludes the Administrative Office of the U.S. courts from providing that judge with "resident chambers" in his home community, even if Federal facilities exist and are available at no additional cost to the Government. This situation has been in existence since 1962, and not surprisingly, the solution has been very much like the "undesirable practice" the 1962 amendment was designed to eliminate. The solution has been "specific legislative action in each instance" to authorize the subject community as a place where district court "shall be held." Since 1962, 16 different public laws have been enacted to "designate 21 additional communities as "places where court shall be held." [8]

On March 13, 1973, Senator Marlow Cook of Kentucky introduced S. 1175, 93d Congress, 1st session, a bill to amend section 142, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States. As introduced, S. 1175 would have added the following sentence to section 142:

> The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.

The bill was formally referred to the Senate's Subcommittee on Improvements in Judicial Machinery, and transmitted to the Judicial Conference of the United States for its views. The Conference, acting upon the recommendation of its Committee on Court Administration, approved S. 1175 at its April 1973 session.[9] Following receipt of those Conference views, the Senate subcommittee took no further action on S. 1175 during the 93d Congress.

In September of 1975 the Judicial Conference therefore "reendorsed" its approval of S. 1175, 93d Congress, and instructed the Director of the Administrative Office of the U.S. Courts to "transmit such legislative proposal to the 94th Congress." [10] Several bills embodying the Judicial Conference's proposal were thereafter introduced: H.R. 10574, 94th Congress, 2d session, by Congressmen Carter and Mazzoli of Kentucky; H.R. 12182, 94th Congress, 2d session, by Congressmen Brooks and Poage of Texas; and S. 2749, 94th Congress, 2d session, by Senators Huddleston and Ford of Kentucky. Beyond referral to subcommittee, no action was taken on S. 2749 during the 94th Congress. The House bills, however, were referred to the Subcommittee on Courts, Civil Liberties, and the Administration of Justice, and 1 day of hearings was held on May 20, 1976. Appearing on behalf of the Judicial Conference, William E. Foley, Deputy Director of the Administrative Office of the U.S. Courts, fully supported the amendment

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[8] See the "Legislative History" notes following section 142 in 28 U.S.C. (1970 ed.).
[9] See "Annual Report of the Proceedings of the Judicial Conference of the United States, Apr. 5–6, 1973," at 4.
[10] See "Annual Report of the Proceedings of the Judicial Conference of the United States, Sept. 5–6, 1975," at 49.

of section 142 of title 28, United States code.[11] Unfortunately, the press of business before the subcommittee prevented favorable action prior to the adjournment of the 94th Congress.

Oversight

Oversight of the Administrative Office of U.S. Courts which provides administrative support for judges of the court of appeals is the responsibility of the Committee on the Judiciary. The legislation arose, in part, from the committee's perception of the needs of the Federal judiciary as expressed in the oversight process.

Statement of the Congressional Budget Office

Pursuant to the Rules of the Senate, and the Congressional Budget Act of 1974, the following is the cost estimate on H.R. 2770 prepared by the Congressional Budget Office.

Congressional Budget Office,
U.S. Congress,
Washington, D.C., November 2, 1977.

Hon. James O. Eastland,
Chairman, Committee on the Judiciary, U.S. House of Representatives, Washington, D.C.

Dear Mr. Chairman: Pursuant to section 403 of the Congressional Budget Act of 1974, the Congressional Budget Office has reviewed H.R. 2770, a bill to amend section 142 of title 28, United States Code, relating to the furnishing of accommodations to judges of the courts of appeals of the United States, as ordered reported by the Senate Committee on the Judiciary, November 2, 1977.

Based on this review, it appears that no additional cost to the Government would be incurred as a result of enactment of this bill.

Sincerely,

Alice M. Rivlin, *Director.*

Estimated Cost of the Legislation

The committee estimates that the legislation will result in no additional cost to the United States."

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[11] Hearings on H.R. 10574, H.R. 8472 and S. 14, and S. 12 before the Subcomm. on Courts, Civil Liberties, and the Administration of Justice of the House Comm. on the Judiciary, 94th Cong., 2d sess. (1976) (unprinted hearings).

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italic, existing law in which no change is proposed is shown in roman) :

SECTION 142 OF TITLE 28, UNITED STATES CODE

§ 142. Accommodations at places for holding court.

Court shall be held only at places where Federal quarters and accommodations are available, or suitable quarters and accommodations are furnished without cost to the United States. The foregoing restrictions shall not, however, preclude the Administrator of General Services, at the request of the Director of the Administrative Office of the United States Courts, from providing such court quarters and accommodations as the Administrator determines can appropriately be made available at places where regular terms of court are authorized by law to be held, but only if such court quarters and accommodations have been approved as necessary by the judicial council of the appropriate circuit. *The limitations and restrictions contained in this section shall not be applicable to the furnishing of accommodations to judges of the courts of appeals at places where Federal facilities are available and the judicial council of the circuit approves.*

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Calendar No. 534

95TH CONGRESS
1st Session

SENATE

REPORT
No. 95-580

COMMUNICATIONS ACT AMENDMENTS—PENALITIES AND FORFEITURES AUTHORITY AND REGULATION OF CABLE TELEVISION POLE ATTACHMENTS BY THE FEDERAL COMMUNICATIONS COMMISSION

NOVEMBER 2 (Legislative day, NOVEMBER 1), 1977.—Ordered to be printed

Mr. HOLLINGS, from the Committee on Commerce, Science, and Transportation submitted the following

REPORT

[To accompany S. 1547]

The Committee on Commerce, Science, and Transportation, to which was referred the bill (S. 1547) to amend the Communications Act of 1934, as amended, with respect to penalties and forfeitures, and to authorize the Federal Communications Commission to regulate pole attachments, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

SUMMARY AND PURPOSE

The bill (S. 1547) serves two purposes:

(1) To unify, simplify, and enlarge the scope of the forfeiture provisions of the Communications Act of 1934; and

(2) To establish jurisdiction within the Federal Communications Commission (FCC) to regulate the provision by utilities to cable television systems of space on utility poles, ducts, conduits, or other rights-of-way owned or controlled by those utilities.

PENALTIES AND FORFEITURES

S. 1547, as reported, would unify and simplify the forfeiture provisions in the Communications Act of 1934, enlarge their scope to cover all persons subject to the act, provide more practical limitations periods and more effective deterrent levels of forfeiture authority, and would generally afford the Federal Communications Commission greater flexibility in the enforcement of the Communications Act and rules and regulations promulgated thereunder.

The Communications Act of 1934 now imposes monetary civil penalties on certain individuals who fail to comply with the Communications Act, FCC regulations, or related matters. These civil liabilities include the forfeiture provisions in section 503(b) (relating to the broadcast services) and section 510 (applicable to nonbroadcast radio stations). S. 1547 would enlarge the scope of forfeiture liability under these sections to cover other persons subject to the Communications Act—such as cable television systems, users of experimental or medical equipment emitting electromagnetic radiation, persons operating without a valid radio station or operator's license, and some communications equipment manufacturers.

S. 1547, as reported, would make three alterations in the existing forfeiture provisions. First, it would extend the limitations period within which notices of liability must be issued: for persons not previously subject to forfeiture liability, 1 year; for nonbroadcast licensees, from the present 90 days to 1 year; and for broadcast licensees, from the present 1 year to 1 year or the current license term, whichever is longer, not to exceed 3 years. Second, the maximum forfeiture that could be imposed for a single violation would be raised to $2,000; for multiple violations, within any single notice of liability, $20,000 for a common carrier, broadcast licensee, or cable system operator, and $5,000 in the case of all other persons. Third, the bill would authorize the Commission to mitigate or remit common carrier forfeitures in the same way as it now may with respect to all other forfeitures. Furthermore, the Commission would be given its choice of using the traditional "show cause" procedure for imposing a forfeiture or alternatively holding an adjudicatory hearing under section 554 of the Administrative Procedure Act.

POLE ATTACHMENT REGULATION

S. 1547, as reported, would empower the Commission to hear and resolve complaints regarding the arrangements between cable television systems and the owners or controllers of utility poles. A pole attachment, for purposes of this bill, is the occupation of space on a utility pole by the distribution facilities of a cable television system—coaxial cable and associated equipment—under contractual arrangements whereby a CATV system rents available space for an annual or other periodic fee from the owner or controller of the pole—usually a telephone or electric power company. The Commission would prescribe regulations to provide that the rates, terms, and conditions for pole attachments are just and reasonable. For a period of 5 years after enactment of this act, the Commission would employ a specified rate-setting formula in determining whether a particular pole attachment rate is just and reasonable. The formula describes a range between marginal and a proportionate share of fully allocated costs within which pole rates are to fall.

Any State which chooses to regulate pole attachments may do so at any time, and will preempt the Commission's involvement in pole attachment arrangements in that State simply by notifying the FCC that it regulates the rates, terms, and conditions for such attachments. S. 1547 in no way limits or restricts the powers of the several States to regulate pole attachments.

The jurisdictional restrictions of section 2(b) of the act (47 U.S.C. 152(b)) are modified to permit the FCC to regulate practices of intrastate communications common carriers as they relate to pole attachments. Utilities owned by the several States or their political subdivisions, and utilities owned by the Federal Government, are exempt from FCC pole attachment regulation. In like manner, the provisions of S. 1547 do not apply to any cooperative electric or telephone utility, or any railroad.

Background and Need

S. 1547 was introduced by Senator Hollings on May 17, 1977. The committee held hearings on the bill on June 23 and 24, 1977. Additional written submissions were received from interested parties, who expressed their views on the bill in its form as introduced, on a study of pole attachment problems of the Commission's Office of Plans and Policy, and on alternative pole attachment legislation suggested by the FCC's Common Carrier Bureau. That portion of S. 1547 relating to forfeiture authority is identical to S. 2343, which the Senate passed in June 1976 during the 94th Congress.

FORFEITURES

The FCC has long had forfeiture authority over common carriers and maritime radio stations. The FCC was given forfeiture authority over broadcasters in 1960. Section 503(b) of the Communications Act of 1934 was added to make broadcast licensees subject to some "middle ground" remedy other than license revocation (74 Stat. 889—Public Law 86–752, Sept. 13, 1960). In 1962, section 510 (76 Stat. 68—Public Law 87–448, May 11, 1962) was added to permit the Commission to impose forfeitures on nonbroadcast radio licensees for certain specific kinds of misconduct.

The Federal Communications Commission has testified to the committee that its existing forfeiture authority is inadequate to enforce effectively the Communications Act of 1934 in three principal respects:

(1) Not everyone now subject to the act is subject to forfeiture authority;

(2) The limitations period within which a notice of liability must be issued is unrealistic in light of the necessary preliminary field investigations required; and

(3) The maximum amount of forfeitures permitted for single and multiple violations is unrealistically low to be an effective deterrent for highly profitable communications entities or to provide sufficient penalty to warrant the Attorney General's or the various U.S. district attorneys' attention for prosecuting forfeitures within the Federal district courts.

The Commission argues that certain procedural requirements contained in existing forfeiture provisions compel misallocation of Commission assets and prevent the FCC from getting full benefit of extremely limited FCC field resources in the Commission's effort to encourage individuals to comply fully with the Communications Act of 1934. In this connection the Commission notes that there are now over 11 million authorizations in the safety and special radio services—under which falls the citizens band radio service—alone.

A forfeiture is a civil penalty authorized under the Communications Act for certain violations of that act or related communications statutes, treaties, rules, or regulations. Whenever the Federal Communications Commission finds that grounds exist to support a suit for collection of forfeiture authorized under the Communications Act of 1934, a written notice of apparent liability is issued by the Commission to the violator. That notification specifies the violation and the amount of the forfeiture. The suspected offender has several alternatives, including immediate payment of the amount specified, a right to show cause in writing why he or she should not be held liable, or admission of liability with the right to argue that the amount of the forfeiture is excessive. If the person who receives the notice of apparent liability submits a statement in writing citing reasons against being held liable, the FCC then must proceed to an order, declaring nonliability or establishing the amount of the forfeiture. If the suspected violator then fails to pay the forfeiture to the Treasury, the case may be referred by the Federal Communications Commission to the Attorney General for appropriate civil action to recover the forfeiture in accordance with section 504(a) of the Communications Act. Section 504(a) authorizes the Attorney General to proceed in the Federal District Court in a trial de novo and to seek judgment for the amount of forfeiture.

S. 1547, as reported, amends this forfeiture procedure by giving the FCC a choice to use either a full adjudicatory hearing before the FCC or the less formal written "show cause" proceeding described above to determine a forfeiture liability. Under S. 1547, as reported, the Commission has full discretion to choose the appropriate proceeding, and may issue either a notice with an opportunity for hearing under section 503(b)(3)(A) or a notice of apparent liability with an opportunity to show in writing why the suspected violator should not be held liable under section 503(b)(4). The choice of the type of proceeding is exclusively the Commission's, and it is determined by the character of the notice the FCC chooses to issue a suspected violator.

The committee believes the FCC needs the alternative of an adjudicatory hearing for the exceptional forfeiture case, where urgency, precedent value, or convenience of the Commission warrants a proceeding exclusively under the Commission's control until a final judgment on appeal is obtained. The Justice Department's only involvement in an adjudicatory hearing before the Commission under new section 503(b)(3) would be to pursue a collection action after final judgment if the violator failed to pay the fine.

OTHER FCC ENFORCEMENT MECHANISMS

Forfeiture is one of several law enforcement mechanisms available to the FCC to enforce its rules and regulations. However, the Commission has argued that other enforcement alternatives are cumbersome and time-consuming procedures which are inappropriate for relatively minor violations. The Commission may enter a cease-and-desist order followed by a civil contempt proceeding which the Department of Justice must agree to prosecute. The cease-and-desist order is particularly cumbersome because the violator is entitled to an FCC order to show cause why a cease and desist order should not be issued. There is then a reply period of at least 30 days with the opportunity for a full

evidentiary hearing. Only then can the FCC issue a cease and desist order which must specify findings, grounds and reasons, and the effective date. (See section 312 (B) and (C).) Failure to obey that order then becomes subject to civil contempt proceedings by the Department of Justice in a U.S. district court.

Another enforcement alternative is criminal prosecution. Title 18 of the United States Code and the Communications Act of 1934 impose criminal liability for certain specified acts. However, criminal enforcement is exclusively in the hands of the Department of Justice.

An additional enforcement mechanism available to the FCC in certain instances is the authority to suspend or revoke broadcast and nonbroadcast radio station licenses (see section 303(m), section 312 (a)). This suspension and revocation authority has the obvious limitation of not reaching unlicensed operators or persons who are not required to be licensed by the FCC. Moreover, as license revocation constitutes a death sentence for any commercial entity dependent upon its radio license, the FCC is naturally reluctant to use this extreme remedy for behavior which merits only a reprimand or small penalty.

Another enforcement alternative is a "writ of mandamus" issued by a U.S. district court, "commanding such person to comply with the provisions of" the Communications Act of 1934 (see section 401 (a)). It can only be issued by a district court upon application by the Department of Justice at the request of the Federal Communications Commission.

The final enforcement alternative available to the FCC is an accounting order imposed against a common carrier (see section 407). This mechanism is available to the Commission in the case of a common carrier tariff increase. The Commission can permit a tariff increase to go into effect subject to an accounting order, pending final Commission resolution of the lawfulness of the tariff increase. If the tariff is eventually found to be unlawful, the Commission can order the amount subject to the accounting order to be returned to the persons for whose benefit the order was imposed by the FCC. Those individuals must enforce their rights under an accounting order—by suing in the district court or State court with jurisdiction.

Each of these enforcement authorities has severe limitations. Few are applicable to all persons subject to the Communications Act. All are extremely prolonged and expensive procedures, both for the persons charged with the violations and for the Government. Many have limited applicability to certain specific kinds of offenses in the Communications Act. All are relatively low priority matters to the Department of Justice.

EXTENSION OF FORFEITURE SANCTIONS TO ALL PERSONS SUBJECT TO THE COMMUNICATIONS ACT

S. 1547, as reported, extends the forfeiture sanction to all persons who engage in FCC-proscribed conduct. New section 503(b) reaches not only the broadcast station licensees covered by present section 503 (b) and other nonbroadcast radio station licensees and operators covered by present section 510, but extends forfeitures to any person subject to any provisions of the Communications Act or the Commission's rules, including those persons operating without a valid radio