

1 EXECUTIVE SESSION

2 JUNE 24, 1982

3 U.S. Senate

4 Committee on Finance

5 U.S. Senate

6 Washington, D.C.

7 The committee met at 9:43 a.m. in room 2221, Dirksen
8 Senate Office Building, Hon. Robert Dole (chairman)
9 presiding.

10 Present: Senators Dole, Packwood, Roth, Danforth,
11 Chafee, Heinz, Wallop, Durenberger, Armstrong, Symms,
12 Grassley, Long, Byrd, Bentsen, Matsunaga, Moynihan, Baucus,
13 Boren, Bradley and Mitchell. Also present: Messrs.
14 Donnelly, Neuschler and Lighthizer and Ms. Burke.

15 (The press release announg the hearing follows:)

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1 The Chairman. Let me first thank the members for
2 their prompt attendance. We think we can move rather
3 quickly on our first responsibility, which will be the
4 spending reduction as proposed by the reconciliation,
5 the budget having passed yesterday afternoon. We have had
6 literally weeks and weeks of work on some of the budget
7 proposals in areas that we believe we can reduce spending
8 without adversely impacting on low income. We believe we
9 have a package that should have rather broad support in
10 the Committee. It would be my hope that we could complete
11 the spending reductions proposals this morning or today.
12 If not, tomorrow, so that we might move, then, to revenues
13 next Tuesday, Tuesday morning or Tuesday afternoon because
14 we are under the constraint of reporting to the Senate by
15 the 12th of July, which for all practical purposes is
16 July 2nd because of the recess. And I would hope that we
17 could complete action on this portion today or tomorrow.
18 And on the revenue package by maybe next Thursday evening or
19 Friday morning.

20 I think we have a particular responsibility in the
21 Finance Committee because this is the first action since
22 the budget was adopted. Having listened to some of the
23 people this morning talking about how meaningless the
24 budget was unless the authorizing or other committees
25 followed through responsibly -- if we can move with

1 dispatch, it might indicate to the financial markets that
2 we are serious about our responsibility; are prepared to
3 accept it. We believe we have real spending reductions,
4 for the most part. I think we resurrected PIP one more
5 time to give us \$500 million, but PIP -- there is
6 precedence for that.

7 So I thought what we might do, if it is satisfactory
8 to the Committee members, is to have Sheila Burke run
9 through the Medicare/Medicaid, and Sydney Olson, the
10 income security portion. Then, if there is no objection,
11 we might adopt the package on a tentative basis. And then
12 if somebody wanted to knock out a portion of it or have
13 a separate vote on a portion of it or amend a portion of it,
14 it would be open for amendment.

15 Senator Durenberger is the Health Subcommittee
16 chairman. Is that satisfactory?

17 (No response)

18 The Chairman. Senator Armstrong is Income.

19 Senator Bentsen. Well, I would say, Mr. Chairman, no.
20 I am not sure I want to vote for the whole package, and
21 then go at it by trying to do deletions. I assume we will
22 have an opportunity to vote on it.

23 The Chairman. Well, anyway, we wish to proceed.

24 Senator Bentsen. Right.

25 The Chairman. Once it is explained, we would hope

1 that there might be -- we could vote on each item if you
2 want. There are some 60-some items.

3 Senator Bentsen. No. I'm not asking that, Mr.
4 Chairman. I just don't want us to have the assumption
5 that the rest of the package is approved until we get
6 through going through it.

7 The Chairman. No. No. All right. I will do that
8 after we have the explanation. Does everyone have this
9 document? Sheila, does everybody have this? Summary of
10 outlay proposals, health and income security provisions.
11 And on page two, we have the specific provisions. You can
12 proceed any way you wish, Sheila.

13 Ms. Burke. Starting with item number one, the first
14 item was an Administration proposal which deals with the
15 Medicare eligibility entitlement. This would delay
16 eligibility for Medicare to the first month following the
17 month in which the individual turns the age of 65.

18 The second item was an -- yes, sir.

19 Senator Chafee. Mr. Chairman, are we going to have
20 a discussion now, did you say, or have her go through the
21 whole package?

22 The Chairman. I would hope she might go through the
23 package. And then if you could flag some areas that you
24 would like to discuss.

25 Senator Chafee. Fine.

1 The Chairman. It's the second page of that.

2 Ms. Burke. Senator, you can also follow it in the
3 blue book. There are descriptions on each item. This
4 item is noted on page 10.

5 The first item is noted on page 10 of your blue book.
6 And it is item number one -- delaying the initial
7 eligibility date for Medicare entitlement. That would
8 delay until the first month after the month in which the
9 individual turns the age of 65.

10 Item number two, which is also listed on page 10 of
11 your blue book, would modify coverage of the working aged.
12 The purpose of this proposal is to create a primacy and
13 require that employers offer to eligible individuals ages
14 65 through 69 the same employer coverage, health insurance,
15 as offered to individuals under the age of 65. And that
16 that insurance would take primacy over Medicare, which is
17 to say that that insurance would then pay first, and
18 Medicare would back up against that. The individual
19 employee may choose not to retain private insurance. But
20 the employer must make it available to the extent that they
21 make it available to other employees under the age of 65.

22 The Chairman. We are also going to include an
23 exemption for small business. Is that correct?

24 Ms. Burke. It has been suggested that to make this
25 proposal consistent with the Age Discrimination Act, which

1 currently exempts employers of less than 25, that such an
2 exclusion would also be contained. That would alter the
3 cost estimates. The new estimates for that proposal would
4 be a savings of \$320 million in fiscal year 1983; a
5 savings of \$490 million in fiscal year 1984; and a savings
6 of \$550 million in fiscal year 1985.

7 The Chairman. That's the provision, I think, that
8 Senator Bentsen, Senator Grassley, Senator Roth and
9 others have expressed an interest in so we have made that
10 change.

11 Senator Long. Now that works out just the same as
12 if we were putting a tax on these people who are covered
13 by those insurance plans. Does it not? Obviously, it's
14 not a federal tax loan, but it works out the same as if
15 we were putting a new federal tax on those people covered
16 by those plans because it is going to raise their cost.
17 Is that correct?

18 Ms. Burke. In some cases, that's correct, Senator.
19 The increase in premiums would, in part, depend on the
20 size of the employer group. To the extent that is a very
21 large employer group, the increase is likely to be slight
22 because they would be absorbed into the population that is
23 covered under the insurance plan.

24 To the extent it is a small employer, the increase
25 might be more substantial, which is, in part, why we would

1 suggest excluding small employers from coverage.

2 But, again, the individual employee may choose not to
3 retain their private coverage. It is less optional
4 for the individual. It is only mandatory that the employer
5 offer that coverage.

6 The Chairman. It's a lot better for the individual
7 in many cases because he doesn't have the cost he would
8 have otherwise.

9 Ms. Burke. In some cases.

10 Senator Packwood. Let me ask you a question, Bob,
11 if I can.

12 The Chairman. Sure.

13 Senator Packwood. You've got a rather significant
14 reduction in revenues when you exempt small businesses.
15 If you are exempting them only for those employees 65 to
16 69 --

17 Ms. Burke. That is correct.

18 Senator Packwood. -- and they are already exempt
19 from the Age Discrimination Act anyway, what you are saying
20 is even if they keep the people who are 65 to 69, you are
21 going to exempt them from this health coverage.

22 Ms. Burke. From this requirement.

23 Senator Packwood. Even though they don't have to keep
24 them at all.

25 Ms. Burke. That is correct.

1 Senator Packwood. I'm not sure I follow the logic.
2 As long as you don't have to keep them, why, if you do
3 keep them -- which you don't have to do -- shouldn't you
4 have to provide the health coverage?

5 Ms. Burke. In a sense, this is an attempt to encourage
6 them to retain them. It does not require them to make an
7 alteration in their insurance coverage. And, therefore,
8 increase their employer cost. So in that sense, by
9 exempting small employers, we would hope it would not
10 serve as a disincentive to retain individuals ages 65 to
11 69.

12 The Chairman. As I understand it, Senator Grassley
13 had field hearings on this issue. Is that right?

14 Senator Grassley. Yes. In five cities, Iowa and
15 Illinois, Senator Percy and I held hearings. And in the
16 testimony that we received was that one of the incentives
17 to keep the older people on the payroll was the fact that
18 they then become covered by Medicare. And the insurance
19 costs were less. And then the cost of older workers being
20 employed wasn't any more than that of younger workers.

21 Senator Bentsen. And one of the problems, Bob, that
22 you run into with a smaller company is they generally tend
23 to keep older workers. And you get that particularly in
24 some of the smaller towns. And if you don't do this, you
25 are going to load the insurance premium because you are

1 going to skew it. You are going to have people of older
2 age so it is going to raise the premiums substantially.
3 And there will be a great incentive for the employer, under
4 those conditions, to drop some of the older workers. Even
5 though you have got the age 70 non-discrimination, you are
6 still going to have that kind of a problem.

7 Senator Long. Well, is it fair to say that this will
8 provide companies with an additional incentive to drop
9 these older workers?

10 Ms. Burke. To the extent that large companies would
11 be required to offer insurance. It is only to the
12 extent they offer it to other employees. If it increases
13 their cost, there might be a disincentive to retain an
14 individual who is over 65. In a large employer group,
15 that increase in cost is likely to be slight. In a
16 smaller group, it would be likely to be much larger.

17 Senator Long. Now let me see if I understand. You
18 are saying that if they offer the insurance to their
19 workers, they will have to include the older employees.
20 Is that the idea?

21 Ms. Burke. That is correct, Senator.

22 The Chairman. I think it is a reasonable provision
23 with that change.

24 Senator Bentsen. It's much improved, I must say.

25 The Chairman. Okay.

1 Ms. Burke. Item number three is listed on page 26
2 of your blue books.

3 Senator Baucus. Page what?

4 Ms. Burke. Page 26.

5 The Chairman. It's item number three on page two of
6 the paper.

7 Ms. Burke. Page number 26 in the blue book.

8 Under current law, there are no co-payments applied
9 to home health services under the Medicare program. This
10 proposal would apply a co-payment, which would begin at
11 the 20th visit, and would be 20 percent of the average
12 cost by type of visit, by region in the country. And it
13 would apply for all visits after the 20th visit.

14 The Chairman. And this is a modification of the
15 Administration's proposal. Is that correct?

16 Ms. Burke. That is correct. The Administration's
17 initial proposal would have applied a co-payment starting
18 with the first day or the first visit. And it would have
19 been a 5 percent co-payment.

20 Senator Bentsen. Do I understand that this is about
21 the median? When we get to 19 or 20 that that is about the
22 average? I want to encourage home health care. On the
23 other hand, I understand the countervailing thing of trying
24 to put some incentive or disincentive on overuse.

25 Ms. Burke. The information that we have that has been

1 made available to us is that 64.4 percent of those
2 utilizing home health services use between one and 19
3 visits. So it would be approximately 36 percent of those
4 individuals using home services who would be affected by
5 this proposal. The majority use less than 20 visits. This
6 would apply starting at the 20th visit.

7 Senator Baucus. But the contrary to that is that those
8 who require more than 20 visits are the ones who most
9 desperately need home health care.

10 Ms. Burke. Yes. In many cases that is correct,
11 Senator, although one could argue that the type of visit
12 in terms of the intensity of the service might decrease
13 over time to the extent that they get to the end of that
14 number of visits and they might be requiring less acute
15 services. In some cases, they might be the less expensive
16 services. So the cost might be less than it would have
17 been in the beginning.

18 Senator Packwood. Now I take it the Administration's
19 proposal is what was on page 12.

20 Ms. Burke. That's correct, Senator.

21 Senator Packwood. That was the 5 percent cost.

22 Ms. Burke. Starting with the first visit.

23 The Chairman. Starting with the first visit.

24 Senator Packwood. Starting with the first, but it is
25 a significantly less cost than the 20 percent. What you are

1 doing is loading it on the rear end and saying for those
2 who are most in need of home health care are going to pay
3 a higher cost share and you are not going to have any on
4 the first 20 visits.

5 Ms. Burke. That's correct, Senator. The intention
6 was not to discourage up-front utilization of home
7 services by applying a co-payment at the first day, but
8 rather to put them at the end. And thereby, encouraging
9 people to reexamine their use of those services at that
10 point.

11 The amounts in terms of co-payments could go anywhere
12 from \$7.00 per visit to \$6.00 per visit, depending on the
13 type of visit. That is on average what it would be.

14 Senator Packwood. If you wanted to encourage home
15 health, wouldn't you be better off to put a co-payment from
16 day one on nursing homes and no co-payment on home health?

17 Senator Durenberger: There are different people in
18 the nursing homes. You have got principally your people
19 on Medicaid, your needy. And you are right, Bob, on home
20 health. I think Medicare provides the incentives to use
21 home health and keeps people from being driven into nursing
22 homes.

23 Senator Packwood. Yes, but I am not talking about the
24 Medicaid. We are talking about Medicare here.

25 Senator Durenberger. Yes, but there are a very small

1 number of people in long-term care institutions on
2 Medicare. They are mostly on Medicaid.

3 Senator Bradley. Would this proposal increase the
4 administrative cost for the home health agency at all?

5 Ms. Burke. There might be some increase, Senator, as
6 a result of the identification of that cost sharing. I
7 don't know what the extent of that increase would be. I
8 could ask and see if the Department might have an idea.

9 Senator Bentsen. Let me ask you if you wouldn't have
10 it on the collection side.

11 Ms. Burke. Yes. That's what I am saying, Senator.
12 To the extent that it is recovered at the site of service,
13 there might be an increased administrative cost. The
14 extent of that, I don't know.

15 Senator Baucus. Could you give me an idea of who
16 these people are that visit more than 20 times?

17 Ms. Burke. Let me ask the Department.

18 The Chairman. Tom, why don't you sit up here? Sit
19 right there. There's a mike right there if you need it.

20 Ms. Burke. They don't appear to have the information
21 that would give us the type of visit that is most likely
22 to be provided after the 20th visit. I can ask that they
23 look for that information.

24 Senator Baucus. Well, if that's the case, how can
25 they come up with number one to 19? If we don't know the

1 kind of visits --

2 Ms. Burke. They have averages in terms of the use of
3 home health services. I'm not sure that we have it broken
4 down by the type of visit for home health service. And
5 that is what we will try and find out.

6 Senator Baucus. It just seems to me it would be
7 relevant to know what that type of service is before
8 deciding when to cut it off or when to impose, if at all,
9 co-payment.

10 Senator Packwood. Bill, to answer your question, you
11 have got to have an increase in administrative cost because
12 there is no co-payment now.

13 Senator Bradley. That was my guess. And I think the
14 other point that was raised is that the people who have
15 20 visits or more are really the sicker people. And if
16 you suddenly put a co-payment on them, doesn't that push
17 them into the institutional setting, with an increase in
18 Medicare or Medicaid?

19 Senator Packwood. I think the tendency would be that
20 direction because they will want to go where they will get
21 reimbursement or not have the co-payment.

22 Senator Bradley. So I mean I don't know how much
23 net savings this is going to achieve. Is there any sense
24 that we could get of how many people there are? What the
25 number of population is and how much increased cost on

1 Medicare/Medicaid would go to it?

2 The Chairman. Well, we will try to get that
3 information before we finish the list. Let's move onto
4 PSROs.

5 Senator Chafee. Mr. Chairman, this does seem to be
6 getting into considerable discussion of each item, which
7 is all right by me. But I just don't want to let number
8 one go by. And I would like to have a shot at that, unless
9 it is truly your theory to just have her discuss each one.

10 The Chairman. Let's just see if we can't just go
11 through it. We are not going to shut anyone off, obviously.
12 And then we will come back and take whatever. Number one
13 will be at the top of the list.

14 Senator Chafee. Okay.

15 Ms. Burke. Item number four is listed on page 28 and
16 29 of your blue book. This proposal is a legislative
17 proposal that was introduced by Senator Durenberger which
18 deals with alterations in the PSRO program. The initial
19 proposal introduced by the Administration would have
20 repealed the PSRO program.

21 This proposal intends to change the system by
22 creating a contracting mechanism whereby the government
23 would currently, as they do now, review services through
24 a contract purchasing those services from review
25 organizations in localities across the country.

1 There are administrative changes which ease the
2 requirements with respect to the administration of that
3 program. There are consolidations made with respect to the
4 size of areas that are to be reviewed. The contracts are
5 to reflect the requirements of the Administration and of the
6 organization doing the reviews so they can be clearly
7 identified when the purposes of the contract are reviewed
8 and looking at the success or the failure of the
9 organization.

10 The purpose of the reviews are as they are now to
11 look at the utilization of services by Medicare recipients.
12 They would also be available to Medicaid if the states
13 chose to utilize these groups.

14 The Chairman. Go right ahead.

15 Ms. Burke. Item number five is listed on page 13 of
16 your blue book, and is an Administration proposal with
17 respect to the reimbursement of radiologists and
18 pathologists. And would alter that treatment so it is
19 consistent with the payment of other physicians.

20 Currently, radiologists and pathologists are
21 reimbursed at 100 percent. This would alter that and
22 treat them as other physicians -- paying them 80 percent.

23 Senator Grassley. Why would you reimburse them at
24 a higher level in the first place?

25 Ms. Burke. Senator, that was placed in the law in an

1 attempt to encourage an alteration in the method of billings
2 by radiologists and pathologists. That change did not
3 take place. It was a question of something that is called
4 "combined billing" which was done a number of years ago.
5 That did not substantially alter the behavior. And, in
6 fact, most of the physicians now bill on a fee for service
7 basis. So this would basically put them on the same
8 basis as other physicians who bill in that fashion.

9 Senator Bradley. Would that result in any kind of
10 cost shifting at all?

11 Ms. Burke. In some cases it might, Senator, to the
12 extent that they attempt to collect the 20 percent from
13 an individual or choose not to accept the sign, and,
14 therefore, bill amounts in excess of what Medicare would
15 pay.

16 Senator Bradley. So if you put a cap on that, the
17 individual taking up more or having to pay more or a
18 premium on his Medicare policy increasing? Right?

19 Ms. Burke. That is correct, Senator, to the extent
20 that they will be treated as other physicians which is
21 an 80/20. And the individual is responsible for that 20
22 percent. Then there could be increased cost sharing for
23 the individual.

24 Senator Bradley. Do we have any sense of how much
25 that would be? How much Medigap policies might go up and

1 how much the premiums might go up?

2 Ms. Burke. No, Senator, I don't believe the
3 Administration would be able to compute that.

4 Senator Bradley. But there would be an increase in
5 not only individual costs because the probability that
6 the physicians' fees would continue to rise, but also
7 Medigap policy premiums.

8 Ms. Burke. To the extent, Senator, that that would
9 reflect cost sharing by the individual.

10 Senator Baucus. In addition to that, if Medigap
11 policies themselves don't cover it, then the beneficiaries
12 will be paying it.

13 Ms. Burke. That's correct. As they do with other
14 physician services currently.

15 Item number six is listed on page 14 of your blue
16 books. This is an Administration proposal that would
17 index the Part B deductible under the Medicare program to
18 the Consumer Price Index. The deductible is currently
19 \$75.00 per year. And was fixed at that amount last year.
20 Prior to that time, it had been \$60.00 since 1972. It is
21 a static amount and does not increase with the cost of the
22 program. This would allow the deductible to increase on an
23 annual basis at the same rate as the Consumer Price Index.

24 The projected increase in 1983 would be \$85.00, which
25 is a \$10.00 increase over the 1982 estimate for the

1 deductible. In 1984, the deductible is estimated to be
2 \$89.00. And in 1985, the deductible would be estimated
3 to be \$93.00.

4 Senator Baucus. That's assuming the rate of inflation
5 is about 4 percent in 1984 and another 4 percent in 1985.
6 Less than that actually.

7 Ms. Burke. The estimates we used were the CBO
8 Consumer Price Index numbers. I am just checking.

9 Senator Bradley. And is the rationale for this that
10 with inflation the person should have his or her medical
11 cost -- the part that he or she pays, the deductible -- go
12 up because inflation has gone up. Is that the idea?

13 Ms. Burke. I believe the principle, Senator -- and
14 the Administration may want to speak to this -- is that
15 the individual, in paying a deductible that reflects the
16 increase in the cost of services generally, would have
17 more sense of what it cost to provide those services; that
18 it reflects in their increased cost sharing the cost of the
19 program in general.

20 Mr. Donnelly. That's a correct statement. The
21 principle is clearly that if the individual participates
22 more in the cost in a reasonable and moderate way of the
23 services being rendered, they are more sensitive to the
24 services.

25 Senator Bradley. Do you see any relationship between

1 this and potential changes in the Social Security index?
2 Right now, it is CPI. Let's say we changed it at some
3 future time and made it wages or cut 3 or 4 percent out of
4 CPI, what affect would that have on this particular index?

5 Mr. Donnelly. I don't know that it would have a
6 direct affect unless you reconsidered this. It seems to
7 me that at that point that you would make some judgment
8 about Social Security index, then this is certainly a
9 question that could be revisited. If the question is the
10 applicability of the index to the issue, that's open to
11 discussion.

12 Senator Bradley. So you are suggesting that if we did
13 modify the Social Security index that it would be
14 appropriate to modify this as well?

15 Mr. Donnelly. I wouldn't say appropriate to modify
16 per se. It would just be appropriate to go back and look
17 at this to see if the two indexes are, in fact,
18 applicable. It is certainly open to question.

19 The Chairman. Go ahead.

20 Ms. Burke. Item number seven is located on page
21 25 in your blue books. This is a modification of a
22 proposal initiated by the Administration. This proposal
23 would provide for no increase in the economic index which
24 is used to allow increases in physician fees under the
25 Medicare program.

1 The Administration's proposal would have allowed a
2 4.5 percent increase. This proposal would allow for no
3 increase in that index. It is projected for next year in
4 actuality to be approximately 8.9 percent, so this would
5 not allow the index, which is the ceiling against which
6 physician fees are measured, to increase next year.

7 Senator Bradley. Now this would be another one of
8 those suggestions that would result in significant cost
9 shifting.

10 The Chairman. It could result.

11 Senator Bradley. It could result. I mean if the
12 physicians' fees stayed where they are or went up as they
13 have in recent years, then it could also result in
14 increased Medigap premiums. Right?

15 Ms. Burke. To the extent that the physicians pass
16 on those increases to patients. Yes, sir, that's correct.

17 The Chairman. They might be satisfied with what they
18 have.

19 Senator Bradley. Well, if we look at any record of
20 the past 20 years, the answer would be that people would
21 like to have better health care and they are going to go
22 out and seek it. And the cost is going to go up.

23 The Chairman. Where is that in the blue book?

24 Ms. Burke. At page 25, Senator.

25 The assignment rates for physician fees on average has

1 remained about stable, Senator. And it's about 50 percent.
2 That would suggest that the amount of claims that physicians
3 are willing to take what Medicare pays in full is about 50
4 percent of the claims. And that hasn't changed
5 substantially over the last couple of years.

6 Senator Baucus. But this reduces the physician
7 reimbursement so that suggests --

8 Ms. Burke. It just holds it to no increase.

9 Senator Baucus. -- that the assignment will decrease.

10 Ms. Burke. This holds it to no increase.

11 Senator Baucus. That's right. So logically, if I
12 were a physician, I would be less inclined to take
13 assignments.

14 Ms. Burke. To the extent that they are up against
15 the limits. These are only the people that are up against
16 the prevailing limits who would have been impacted by the
17 increase in the index. No individual's physicians who
18 are below those limits.

19 Senator Baucus. The physicians' fees will probably
20 raise the price by a greater degree than -- or bump up
21 against these limits, I would guess.

22 Senator Bradley. So why would you say that a
23 physician would be reluctant or that some physicians would
24 be reluctant to take assignment if --

25 The Chairman.

1 Ms. Burke. No, I didn't say that, Senator. What I
2 said was that in some cases physicians might choose not to
3 take assignments. In other cases, they may continue to do
4 so. And about on average, about 50 percent of the claims
5 are, indeed, assigned claims currently.

6 The Chairman. I might say as a general thing that
7 what we have tried to focus on in this particular year is
8 on the provider -- hospitals, physicians and others --
9 because I think of some just criticism in past efforts to
10 focus on budget reductions has been on the beneficiary.
11 And others escaped scot-free. So we have gone back over
12 many of these programs. These things could happen. But
13 about 50 percent of physicians now accept assignment?

14 Ms. Burke. Fifty percent of the claims are assigned.
15 That's correct.

16 The Chairman. We believe that we are looking at
17 equity and fairness and budget reduction here.

18 Senator Baucus. Mr. Chairman. I think you made a good
19 point. The trouble is the only major proposal here which
20 does go at reducing costs -- not in payments to the
21 beneficiaries -- is your proposed change in Section 223 in
22 extending that. That's a very good change. That goes to
23 the heart of the matter. It goes to the disease rather
24 than the symptoms. But I think a lot of these measures
25 that we have discussed thus far go to the symptoms and not

1 to the disease. That is, they go to reduce payments to
2 beneficiaries rather than going to the heart of the matter
3 which is trying to reduce the excessive rise in health
4 care cost, which everybody must experience. Not only
5 Medicare patients, but every other American citizen.

6 Senator Durenberger. Well, let me say, Mr. Chairman,
7 if I may, that clearly both the Senator from Montana and
8 the Senator from New Jersey are correct. There is a whole
9 lot of cost shifting going on in this budgetary process.
10 It is not all cost shifting. As you have pointed out,
11 there are some good policies. And it is going to be hard
12 for all of us to swallow to a degree. We would rather be
13 sitting here doing capitation and vouchers than the
14 prospect of reimbursement. And you will find as we go
15 though this process we are tagging those things on to make
16 sure that one of these years we address it. And, in effect,
17 use the force of the budgetary process to get there.

18 But nobody on this side, I guess, is going to say that
19 there isn't some cost shifting either to the states, in the
20 case of Medicaid; to providers, in the case of 223 limits;
21 or physicians and so forth.

22 Senator Baucus. And also beneficiaries.

23 Senator Durenberger. All right. Certainly.

24 The Chairman. Some small degree.

25 Senator Durenberger. There you get some good feedback.

1 The Chairman. Let's try to move on. And then we will
2 come back and discuss it in more detail.

3 Ms. Burke. Item number eight is located on page 25
4 of your document. This proposal would repeal the nursing
5 differential which is currently paid to hospitals and
6 skilled nursing facilities. It is currently a 5 percent
7 differential. It was, in the past, 8-1/2 percent. And it
8 was reduced to 5 percent. It is paid on the assumption,
9 originally in 1969, that Medicare patients were more
10 costly to care for because they required more nursing care.

11 There have been questions raised in recent years
12 with respect to the value of the original studies upon
13 which this differential was based. GAO prepared a report
14 in 1982 for us at our request and indicated that the
15 studies are non-conclusive at this point. They can neither
16 prove the case for nor the case against a differential.
17 This would repeal the existing differential.

18 Item number nine is located on page 27 of your blue
19 book. And is the legislation that legislates an
20 Administration regulatory proposal.

21 The Chairman. What we are doing in some areas so we
22 can take credit for the savings is legislating a regulatory
23 proposal. It's legitimate. And it is going to happen in
24 any event so we believe that the farmers can't complain if
25 we legislate what they intend to do. Is that right, Tom?

1 Mr. Donnelly. That's correct.

2 Ms. Burke. This regulatory proposal would modify the
3 reimbursement of hospital based physicians, and would,
4 in effect, create a salary equivalency. It would not
5 prohibit percentage contracts as a method of payment for
6 hospital based physicians, but would simply apply a test of
7 reasonableness under Medicare that holds them against what
8 they would pay on a salary basis for similar services.

9 It also requires that services that are administrative
10 in nature and supervisory in nature be considered as a
11 hospital cost. And that only those services that are
12 directly provided by a physician be considered a physician
13 cost, and billed under Part B of the program.

14 Senator Boren. I wonder, Mr. Chairman -- in the other
15 provision we are modifying the way they are treated under
16 Part B. I think we are saving significant amounts of money
17 in terms of reimbursement under 80 percent Part B. I
18 wonder if there is any inconsistency in treating
19 pathologists or other hospital based physicians as
20 physicians under one section of the law, and then turning
21 around and treating them as employees of the hospital. I
22 am just concerned about the structural change that is being
23 contemplated there.

24 Ms. Burke. Senator, the principle is one of retaining
25 physician services regardless of whether it is provided by

1 a pathologist or any other physician as a Part B service.
2 And we intend to treat pathologists, radiologists and
3 anesthesiologists in that fashion.

4 In large part, this was an attempt to help separate
5 out those costs that are really administrative in nature,
6 and that really should be considered in institutional
7 cost rather than a physician service cost. The approach
8 taken by this regulation is consistent with the change
9 made earlier, which was to treat them under Part B as they
10 treat all other physicians. But there is an interest in
11 looking at it because in some cases they do retain salary
12 arrangements with institutions. Some test of reasonableness
13 for the institution as to what Medicare would pay for those
14 services.

15 The Chairman. Next.

16 Ms. Burke. Item number 10 is located on page 27 of
17 your blue book. This proposal would hold the Part B
18 premium constant as a percentage of program costs. Under
19 the original Medicare program, the premium was designed to
20 reflect 50 percent of the program costs. As a result of
21 changes made in the 1970s, the rate of increase in the
22 premium was held down rather than allowed to increase with
23 the cost of the program, and was not allowed to increase
24 at a rate greater than the cash increase with respect to
25 Social Security cash benefits. That rate has tended to be

1 much slower than the rate of increase in health care
2 costs. This proposal would fix the premium at 25 percent
3 of the program cost, and hold it at that rate in future
4 years so that it continues to reflect a 25 percent share
5 of what the program costs would be.

6 The Chairman. And just as an example, as I understand,
7 next year there would be a premium increase of, what,
8 \$.10 per month?

9 Ms. Burke. That's correct, Senator. The estimated
10 premium would be \$12.30. It is currently, under current
11 law, estimated to be \$12.20.

12 Senator Bentsen. Well, suppose in the outyears you
13 would have an --

14 Ms. Burke. In 1984, it is a \$.50 increase over the
15 projected premium from \$13.20 to \$13.70. And in fiscal
16 year 1985, it would be \$15.30 instead of the current
17 projected \$14.10. So it would be a \$1.20 increase in the
18 third year per month.

19 Senator Bradley. If inflation was higher or the
20 number of the persons in the program increased, would that
21 result in a much higher premium? Could it result? I mean
22 if you look at the increase in Part B, there are more
23 costs there that are less controllable than in the other
24 parts of the program.

25 Ms. Burke. Although Part B has tended to go at a

1 slower rate than Part A, and in the service under B, which
2 are physician related, have tended to increase at a much
3 slower pace.

4 Senator Bradley. If the effect of some of these other
5 actions was though to push more people into using Part
6 B services, since we have locked it into a percent of the
7 total, that would result in an increase in premiums. Right?

8 Ms. Burke. To the extent that the program costs are
9 increased by utilization, that amount would be calculated,
10 which is what the premium reflects, and would be reflected
11 in an increase in premium. That's correct.

12 The Chairman. Next.

13 Ms. Burke. Item number 11 is located on page 29 of
14 your blue book. And you should also have in front of you
15 a more detailed description of that proposal. It is
16 entitled, "A Description of Proposals to Limit Medicare
17 Reimbursement to Hospitals."

18 Senator Packwood. I'm sorry. What page is that
19 again in the blue book?

20 Ms. Burke. It's on page 29 of your blue book.

21 The Chairman. And there's another -- there's an extra
22 explanation. I don't have that.

23 Ms. Burke. Mike.

24 The Chairman. Mike, we need a one sheeter here or
25 two.

1 Ms. Burke. Why don't we move to the other? Do we
2 have them, Mike?

3 (No response)

4 Ms. Burke. There are three key parts to this
5 proposal. The first deals with the current 223 limits under
6 the Medicare program, which under current experience only
7 apply to the routine cost in institutions. This proposal
8 would modify the current limits on reimbursement under
9 223 to include ancillary services in an institution. And
10 would change the current 108 percent limitations to 110
11 percent of the average.

12 The current exceptions and exemptions that exist in
13 the 223 system would continue. For example, there is an
14 adjustment for teaching hospitals that would be continued.
15 There is an exemption from the limits for sole community
16 providers, which would be continued. There is also an
17 exception made for hospitals that provide atypical
18 services. For example, psychiatric hospitals. That would
19 also continue.

20 On the other hand, the new limits would call for the
21 elimination of some existing exceptions, which may no
22 longer be considered necessary because of the case mix
23 adjustment, which is also included in the proposal. We
24 would also add an exception that would deal with public
25 hospitals, taking account of the fact that public hospitals

1 sometimes incur costs that are not consistent with what
2 other hospitals incur because of the kinds of patients that
3 they serve. Cost with respect to the social welfare
4 services to individuals because they can't be discharged
5 to their home. That kind of an adjustment would be made.
6 And the Secretary would be directed to determine the
7 amount of the adjustment necessary.

8 We would also exclude from the 223 limits rural
9 hospitals of less than 50 beds.

10 The second part of the proposal would place a three
11 year limitation on hospital reimbursement increases by
12 case under the Medicare program. And would hold them to
13 a rate of increase over their previous year on average of
14 10 percent. It is actually a market basket plus 2 percent
15 for intensity. And that averages out to be about a 10
16 percent rate of increase over three years in each year.

17 The third part of the proposal deals with a direction
18 to the Secretary to propose in cooperation with the Congress
19 a prospective payment system for hospitals and skilled
20 nursing facilities, and report back to the Congress with
21 such a proposal. And that at the point in time at which
22 that proposal was put into the place, the cap that I
23 previously described would no longer continue.

24 The Chairman. I had to step out a minute. Had you
25 indicated that the one change that might be proposed?

1 Ms. Burke. Not yet, Senator.

2 The Chairman. Why don't you go ahead, Max.

3 Senator Baucus. The cap that is a part of your
4 proposal, is that a form of cost containment?

5 Ms. Burke. Item number two, yes, Senator, it is. It
6 is a limit on increases in Medicare revenues per case.

7 Senator Bradley. What would be the affect, then, on
8 hospitals, say private hospitals, who don't have a lot of
9 private patients but have a lot of public patients? Urban
10 hospitals, for example. Wouldn't they get caught in this
11 squeeze?

12 Ms. Burke. To the extent that they increased more
13 than 10 percent over their own previous experience in the
14 year before, they would lose the amounts in excess of that
15 10 percent limit. And it would be based on their own
16 experience so it would be an increase over what they got
17 the year before. Ten percent per case, per discharge.

18 Senator Bradley. If the hospitals' major costs are
19 labor costs, what would be the effect?

20 Ms. Burke. To the extent that their labor costs, which
21 are a part of the index which determines what the costs are,
22 increase at an amount that is in excess of what it had in
23 the past and was so large as to change the index for the
24 cost above 10 percent, they would hit the cap. But it would
25 have to be the combined effect of having their labor costs

1 go up so high as to modify their entire cost per case.

2 The Chairman. Maybe I should just indicate, since
3 there might be questions on that, that we have one
4 suggested change that I would like Sheila to discuss. And
5 we will get some indication from the membership that they
6 prefer this approach or a modified approach, which we
7 discussed, which I think has some merit.

8 Sheila. And then we can go back to Senator Moynihan,
9 Senator Bentsen and others.

10 Ms. Burke. The suggested modification would be to
11 Part 2 of the proposal with respect to the limit. And
12 would suggest that rather than lose the total amount above
13 the cap, they would lose 75 percent. So, basically, they
14 would get 25 percent of the amount over the cap rather than
15 lose it all.

16 The Chairman. That reduces the --

17 Ms. Burke. The savings in the first year by
18 \$130 million. The new savings, as a result, in the first
19 year of the combined program would be \$670 million.

20 Senator Bradley. That's better than it was.

21 Senator Chafee. Mr. Chairman?

22 The Chairman. Yes, Senator Chafee. And then Senator
23 Moynihan.

24 Senator Chafee. Sheila, is there any way we can get
25 some incentive in here? It seems to me now that if a

1 hospital is --

2 The Chairman. We just did with that modification.

3 Senator Chafee. Well, yes, that's on the up side. But
4 I'm saying on the down side. Suppose a hospital comes in
5 at 107. There's no incentive at all for them to try to
6 stay at 107. They might as well be at the 110.

7 Ms. Burke. That is correct, Senator.

8 Senator Chafee. Because they are not going to keep
9 any of it.

10 Ms. Burke. That is correct. The question is what
11 would happen between the two. To the extent that you might
12 hit one limit and not the other, there is no incentive to
13 the extent they come below both limits in that sense
14 because they could come up against the limit and still get
15 their full cost.

16 Senator Chafee. That's right.

17 Ms. Burke. In order to do that or in order to repay
18 the amount and the difference, which we had talked about
19 which is to suggest that to the extent they become low,
20 share that savings with them. We had the actuaries look at
21 it and their estimates, at least initially, are that that
22 would cost the system in total rather than saving the system
23 in total. We have not been able to prepare cost estimates
24 that are detailed. I would like the opportunity to be able
25 to do that. But our initial estimates are that to the

1 extent you let them keep those savings below the limits,
2 it would cost the system rather than save.

3 Senator Chafee. Well, maybe so, but I think there is
4 a lot of merit in encouraging them to do this because they
5 will be producing a service at a lower cost. Now you say
6 eventually that the Federal Government will end up having
7 to pay more. There should be some way of splitting it.

8 Ms. Burke. I think the intention, at least our
9 intention, in looking at this kind of proposal is that
10 it is really a short-term measure. We hope in the way we
11 have designed it to move towards a prospective payment
12 system rather quickly. And we have every indication the
13 departments have begun their work in that area. And that
14 under that kind of a system, certainly every kind of
15 incentive would be likely. This is a short-term proposal
16 which basically holds down the rate of increase to give
17 us the time, basically, to propose a prospective system.
18 We didn't honestly believe we were ready to do that yet.

19 Senator Chafee. Well, I applaud the prospective
20 reimbursement. We have been talking about it around here
21 for several years. If all went well, when do you think it
22 might go in?

23 The Chairman. We are going to tie it into this,
24 aren't we?

25 Senator Chafee. Well, that's just a study, isn't it?

1 Ms. Burke. No. There is an incentive in the sense
2 that the cap goes off as soon as the system is put into
3 place. So to the extent that they desire to avoid the cap
4 for any prolonged period of time, which I would assume
5 institutions would, the system would fit into place rather
6 quickly.

7 The Administration may have a better sense of how
8 quickly they expect to be able to move in terms of a
9 system in working with us.

10 Senator Durenberger. Well, we expect them to be back
11 to us --

12 Ms. Burke. Within a year.

13 Senator Durenberger. The Ways and Means within the
14 year.

15 The Chairman. Senator Moynihan.

16 Senator Moynihan. Mr. Chairman, I just wanted to make
17 a very brief general statement. Particularly, to this
18 particular issue. It is simply this: Last August after
19 we recessed having passed our tax bill, the New York Times
20 had a long article that said that tax reform was dead as
21 far as this country could see. And I wrote a response
22 saying, no, tax reform was very alive. And I would just
23 read a sentence here that says "The new tax law foregoes
24 huge amounts of revenue in the coming years. As deficits
25 loom, the IRS will be flogged into finding ways to increase

1 revenues without seeming to increase taxes. In a word,
2 to close loopholes."

3 Now starting next week, we are going to go through
4 that sequence. There is not a member of this body who
5 hasn't been visited by half a dozen nervous attorneys and
6 corporation executives saying what on earth is this
7 Administration doing to us. They are raising our taxes
8 by closing our loopholes.

9 The Chairman. Only half a dozen?

10 Senator Moynihan. Well, I'm on the "B" list.

11 (Laughter)

12 Senator Moynihan. And this is just a mirror image
13 today. We are going to have "savings" in the social
14 welfare programs of Social Security. Without in any way
15 objecting to the very fine presentation that Mrs. Burke
16 is giving us, so far all I have heard is what the savings
17 consist of; not why we should be making them. I mean is
18 this good for the program; is this good for the patient; or
19 is this simply a savings to the Treasury, which we have
20 been instructed to bring about. I would like to see that
21 and not just move so one, two, three, four, five, six,
22 seven. I know how much we are instructed to do, but what
23 are we doing when we have done it.

24 The Chairman. Senator Bentsen.

25 Senator Bentsen. I just wanted to comment on the fact

1 that as I understood it, you have had an exclusion from
2 this cap for the rural hospitals that has 50 beds or less.
3 Is that correct?

4 Ms. Burke. The exclusion is from the 223 limits,
5 Senator.

6 Senator Bentsen. That's what I am referring to.

7 Ms. Burke. That is correct. Rural hospitals of less
8 than 50 beds are not included in the 223 limits.

9 Senator Bentsen. Well, that was a change that
10 resulted from our discussion as of yesterday, I guess.

11 Ms. Burke. That's correct.

12 Senator Bentsen. I think that is a major improvement,
13 Mr. Chairman. I appreciate you doing that. Your problem
14 when you run into the rural hospitals is that you have a
15 situation with two doctors and one of them takes a
16 vacation and all of a sudden there is trouble. And you
17 just don't have a --

18 The Chairman. In fact, in my hometown, the doctor
19 always likes to go out and harvest so all the patients
20 go home while he is harvesting. And then they come back
21 after the harvest.

22 (Laughter)

23 Senator Baucus. Mr. Chairman, I would like to fall in
24 here to. This is a change which I have been pushing for.

25 The Chairman. I know.

1 Senator Baucus. I'm glad that you put it in here.
2 My state, as well as Texas, and I think most states with
3 a large population -- I can remember a few years ago when
4 the Administration came out with national health care
5 guidelines, which would have had the effect of closing a
6 lot of rural hospitals. There aren't a lot of people in
7 my state, not as many as there are in, say, New York and
8 other states, but I received over 10,000 letters from
9 constituents about that very problem. It was the single
10 most explosive issue I have faced in six, or seven or
11 eight years. And I took those letters; put them in several
12 mail sacks -- a fellow in the office had a pick-up truck and
13 we drove over to Secretary Califano's office; up the
14 elevator; put them on his desk. I know that other states
15 had similar reactions. That was one instance where the
16 Administration backed down and did not implement those
17 national health care guidelines. And I am glad to see that
18 we have a similar kind of proposal here. That is, some
19 recognition of the problems that rural hospitals face,
20 which are different from large, big city hospitals.

21 I want to thank you very much for putting it in.

22 The Chairman. I know I am trying to speed up the
23 process, but I would hope we could go through the rest of
24 the Medicare and Medicaid and then come back and discuss
25 them. The next three items -- I understand they are more

1 regulatory changes which we are going to legislate so we
2 can have credit in the budget process. But if we could
3 touch on those.

4 Ms. Burke. Those items are mentioned on pages 35
5 and 37 of your blue book. As the Chairman described, they
6 are Administration regulatory proposals which we are going
7 to legislate by simply saying that they must publish by
8 a date certain regulations with respect to eliminating a
9 subsidy which is a computer issue with respect to how they
10 determine reimbursements for hospitals under Medicare
11 by establishing single reimbursement limits for skilled
12 nursing facilities in home health agencies and by
13 eliminating duplicate payments for out-patient services.

14 Item number three is a direct result of the change
15 made in last year's Reconciliation Act in this Committee
16 with respect to the way we pay for services provided in
17 out-patient departments in hospitals.

18 Item number 13 is an attachment which should be in
19 front of you. And it is simply an attempt to require the
20 Department to put more money into -- very similar to the
21 activity with the IRS -- audit activities and claims
22 processing. We have information from the Department which
23 indicates that the return on dollars spent in audits is
24 quite high. These savings which are preliminary reflect a
25 commitment of \$45 million in each of the three next years

1 for those kind of audit activities.

2 Item number 14 is also described in the attachments
3 in front of you. And I am sure it is familiar to many of
4 you. And is a delay in the periodic interim payment. This
5 would be a three week delay, basically, in a payment to
6 institutions that choose a method of payment under
7 Medicare which allows them to get payments on a fairly
8 short-term basis. There is generally a three week lag from
9 service to payment. This would delay in 1983, and in 1984,
10 the last payment at the end of the fiscal year into the
11 next fiscal year. The institutions don't lose the money.
12 It simply delays the period of time until they get paid.

13 The Chairman. Senator Moynihan.

14 Senator Moynihan. Well, Mr. Chairman, here is an
15 example of the matter I brought up. We are instructed to
16 save money from Medicare and from hospitals, not in order
17 to improve the care of poor persons or the viability of
18 the hospitals, simply because we emptied out the Treasury
19 last year. And this particular measure is going to be
20 especially hard on urban hospitals that have a large portion
21 of Medicare population. Would that not be so, Ms. Burke?

22 Ms. Burke. To the extent that there is a cash flow
23 issue for that three week period of time. Institutions
24 who are at risk of insolvency or who have cash flow
25 problems might have problems for that period of time. The

1 payment is not not made. It is simply made three weeks
2 late.

3 Senator Moynihan. But three weeks at 21 percent
4 interest in a cash flow problem -- it slows down. And
5 there have been hospitals with more than half its
6 population on Medicare.

7 Ms. Burke. To the extent that there is borrowing to
8 cover that cash flow issue, Medicare picks up its share
9 of the interest cost. And, in fact, reflected in these
10 numbers is an interest cost for that borrowing of about
11 \$10 million in 1983. So we expect that there will, indeed,
12 be some borrowing, Senator, for exactly that reason. And
13 that Medicare will, as it has in the past, pay for the
14 interest cost for that borrowing.

15 Senator Moynihan. Can you give us some idea as to
16 how you reached \$10 million as sufficient to the impact of
17 this change? This change clearly has no other purpose
18 than to save money.

19 Ms. Burke. That's right.

20 Senator Moynihan. To transfer costs from the
21 Federal Government to the hospitals for one year to the
22 next.

23 Ms. Burke. Yes.

24 Senator Moynihan. But it puts in jeopardy a certain
25 number of institutions which exemplified the purposes of

1 this program, which is the care of the poor. And the
2 largest number are urban poor.

3 The Chairman. I might say that this is not
4 unprecedented.

5 Senator Moynihan. No. No.

6 Senator Long. But what bothers me about this
7 particular thing is the Democrats did this fool thing and
8 then the Republicans did this fool thing. And I just
9 wonder at some point if we ought to just stop it. Just
10 right down here, "Illusory savings, \$870 million," and
11 be done with it. And not inconvenience anybody by having
12 to comply with this because it's not a real savings at
13 all. It's a pure gimmick. And why don't we just say
14 "smoke cloud savings" for \$870 million, and just pretend
15 we did it and don't do it.

16 (Laughter)

17 Senator Long. That being the case, you wouldn't
18 inconvenience all these people.

19 The Chairman. Well, we went back through the records
20 and found this to be very effective in past years.

21 (Laughter)

22 The Chairman. Let's finish this if we can. And then
23 we can --

24 Senator Long. All I'm concerned about is we ought
25 to do something for anybody who is inconvenienced by this.

1 Why not say that anybody inconvenienced by this can make
2 a non-interest bearing loan with the government to pay the
3 thing?

4 The Chairman. Or maybe better, if we can find this
5 much savings, maybe somebody will have an amendment that
6 we can eliminate this.

7 Senator Long. Well, all I am saying is I just don't
8 like to inconvenience people. If we are going to do this,
9 why not just let them -- why don't we guarantee a loan so
10 they can borrow the money so they won't have to go out of
11 business if they get caught in a tight business period.

12 Senator Moynihan. Some of our people do.

13 Senator Long. I'm not finding fault. Goodness knows,
14 I have got no right to. I have been a part of this fiasco,
15 but so has everybody else on this Committee. But it seems
16 to me that at some point we ought to ease the burden on
17 citizens out there who have to comply with this. If we
18 are going to do it, I think we ought to find a way to see
19 to it that nobody really suffers from it. Because somebody
20 who is really hard pressed for his cash could be hurt
21 temporarily at least. Why don't you go to work between
22 now and the time we report this thing and try to find some
23 way to ease the burden on somebody who is really hurting
24 in waiting for his cash?

25 The Chairman. Well, we do have some other options.

1 Senator Grassley, did you want to speak to this?

2 Senator Grassley. Well, I only want to comment on a
3 point Senator Moynihan made. You said we are going through
4 all these things because we emptied the Treasury last year.
5 And I thought we had some studies that indicated that within
6 the next six or eight years the health insurance fund is
7 going to be in trouble. And if I were only going through
8 this process to save some money -- what we are trying to
9 do is stabilize, aren't we, the health insurance fund?
10 Because it is going to be broke like the Social Security
11 Trust Fund is broke in about six or eight years?

12 The Chairman. We were told in 1965 that if we weren't
13 careful, Medicare could get as high \$9 billion by 1990.
14 It's \$50 billion, headed for \$115 billion by 1990. So I
15 think some of these changes are long overdue.

16 Senator Grassley. Yes. And they are going to bring
17 stability to the health insurance fund so we don't run
18 into the same problems six or eight years from now that
19 right now we are running into with the Social Security
20 Trust Fund.

21 Senator Moynihan. Medicare is not part of the
22 Social Security Health Insurance Fund.

23 Senator Grassley. It has got a separate tax levied.

24 Senator Moynihan. That's right. Medicaid isn't on.

25 Excuse me.

1 Senator Grassley. Oh. Well, you are right. I agree
2 with you.

3 The Chairman. We haven't come to Medicaid.

4 Senator Grassley. We are talking about Medicare as
5 well.

6 The Chairman. Let's move on.

7 Ms. Burke. Item number 15 is also described in an
8 attachment before you and would simply modify Medicare
9 reimbursement to suggest that Medicare will only pay for
10 assistance in surgery in teaching institutions with
11 surgical training programs to the extent that they are
12 medically necessary because of the type of surgery or
13 because of the complexity of the surgery which requires more
14 than one type of physician to be present.

15 Medicare currently pays for interns and residents
16 as part of a hospital's cost. And to the extent that they
17 are in existence in surgical training programs in
18 institutions, we believe that they should take the place of
19 or participate in that surgery, and that we should only
20 have to pay for an additional physician to the extent that
21 they are necessary for that surgery.

22 Senator Baucus. Mr. Chairman, how are we going to
23 determine whether it is necessary?

24 Ms. Burke. It's generally an intermediary question.
25 It's a physician judgment question in terms of the billing

1 and identification as to why that individual was necessary
2 at the surgery.

3 Senator Baucus. Is there additional cost, administra-
4 tive cost, here?

5 Ms. Burke. No, sir. It would be taken care of by
6 the intermediary in the sense that the claims processing --

7 Senator Baucus. Is it a cost the intermediary has
8 to bear?

9 Ms. Burke. It is a cost that would probably not be
10 an addition to the current cost in terms of claims
11 processing, I believe.

12 Senator Baucus. There is an additional determination
13 that has to be made.

14 Ms. Burke. From our indications from the Department, it
15 is that it would not be an additional cost to the
16 intermediary as a result of this change. And in some
17 cases, in fact, they have done this in the past.
18 Particularly, with private pay patients. And we believe
19 this is consistent and will not incur an additional cost
20 to the intermediaries or carriers.

21 Senator Baucus. There has to be some cost. I mean
22 if the additional determination has to be made, it is a
23 cost in time. It's an opportunity cost at the very least.
24 There is some cost involved here.

25 Ms. Burke. I'm sure that is true.

1 The Chairman. Next.

2 Senator Moynihan. Mr. Chairman, could I just make a
3 point on number 14? There is assistance in interest
4 payments. But there are urban hospitals, particularly in
5 our part of the nation, that cannot borrow. They just
6 aren't credit worthy. They are that much up against
7 it because of Medicaid patients. Could we ask the staff
8 to consider what that situation would be?

9 Ms. Burke. Item number 16 is a proposal that is
10 reflective of Senator Heinz's proposal with respect to
11 HMO reimbursement, and would modify current law require-
12 ments for contracting with HMOs, and also the method of
13 reimbursement under the Medicare program providing for a
14 reimbursement that reflects 95 percent of the cost of
15 caring for an individual in a community outside of an HMO.

16 The proposal defines HMOs. It describes the kinds of
17 services that must be provided. The attachment which is
18 in front of you describes it in some detail.

19 Senator Baucus. Where is that attachment?

20 Ms. Burke. It should be in front of you, Senator.
21 It's item number 16 entitled "Medicare Payments to HMOs."

22 Senator Bradley. We have it on the list but no
23 attachment.

24 Ms. Burke. It should be a description of additional
25 savings. Is there a package in front of you?

1 Senator Bradley. Maybe you could go through it again
2 very carefully, and tell us what it is supposed to say on
3 the sheet that we have in front of us. We don't have that
4 sheet.

5 Were these things distributed in advance? I mean here
6 we are presented with a proposal on an HMO. I assume we
7 are just going through the list and having it explained
8 now. Right?

9 Ms. Burke. That's correct, Senator.

10 Senator Bradley. All right.

11 Ms. Burke. The proposal would modify current law
12 requirements for contracting with HMOs by authorizing
13 prospective reimbursements under risk sharing contracts
14 with competing organizations. And the rate of the
15 prospective contract would equal 99 percent of what is
16 determined to be the amount for caring for the individual
17 in the community outside of the HMO.

18 This rate would be paid on a per capita basis for
19 each class of Medicare beneficiary enrolled in the plan.
20 And those classes would be based on health status, place
21 of residence, institutional status, and disability.

22 The proposal defines a competing health plan as a
23 public or private entity organized into the laws of any
24 state which is a qualified HMO, as defined by the Public
25 Health Service Act, is a state licensed HMO, or meets

1 certain requirements, which includes required services
2 that must be provided to the individuals. All individuals
3 entitled to services under Medicare, except individuals
4 who are medically determined to have N-stage renal disease,
5 would be eligible to enroll in these HMOs.

6 Senator Bradley. Have we had hearings on this
7 particular proposal?

8 The Chairman. No.

9 Ms. Burke. No, we have not, Senator.

10 Senator Durenberger. We have included reference, in
11 effect, to this proposals in hearings we held on
12 demonstrations, the four demonstrations that the
13 Department has out now. And, of course, this bill was out
14 at that time and was commented on. But most specifically,
15 we haven't. But I think it is worth considering here.

16 Senator Bradley. I might, too, once I read it.

17 Senator Moynihan. If I understood it.

18 The Chairman. Let's move onto Medicaid.

19 Senator Baucus. Before we get to that, is there any
20 savings here?

21 Ms. Burke. No, Senator, there is neither a cost nor
22 a savings. CBO has given it a zero cost zero savings
23 because the proposal required that the payment system
24 could not be effective until the first day 13 months
25 after the enactment, or a month after the Secretary

1 notifies the committees that he is reasonably certain
2 that the methodology in determining the rate can be
3 developed.

4 There have been questions in the past as to the
5 ability to technically compute an average cost per
6 individual, which is the AAPCC as it is referred to as.
7 And until such time as there is assurance that they can,
8 indeed, make that computation, the proposal would not be
9 put into effect. So there is neither a cost nor a savings
10 as a result of the proposal.

11 In part, it simply directs the Secretary actually to
12 begin to work on this proposal and then report back to us
13 that they can indeed do what it attempts to accomplish.

14 Senator Baucus. Thank you.

15 The Chairman. Medicaid.

16 Ms. Burke. Medicaid. Item number one.

17 Senator Moynihan. Is that in the blue book?

18 Ms. Burke. I'm sorry, Senator. The Medicaid
19 proposals?

20 Senator Moynihan. Yes. There's a blue book passage
21 on Medicaid but page 38 only has one item.

22 Ms. Burke. I'm sorry, Senator. Page 31 is item
23 number one.

24 Senator Moynihan. Thank you.

25 Ms. Burke. This proposal, which is a modification of

1 the Administration's proposal, would allow states to apply
2 nominal co-payments to all services provided under their
3 Medicaid plans to all individuals except pregnant women
4 and children for ambulatory services. The Administration's
5 initial proposal would have required the states to apply
6 co-payments in certain amounts for services provided in the
7 states.

8 The Chairman. I would suggest some report language
9 which is based on the income on what the co-payment might
10 be. We have had some reports in certain states where the
11 income is about \$60.00 and the co-payment is \$5.00.
12 Obviously, that can't be tolerated.

13 Do you have some suggested report language, Sheila?

14 Ms. Burke. I'm sorry, Senator.

15 The Chairman. Do you have some suggested report
16 language to take care of the problem you mentioned to me
17 earlier this morning?

18 Ms. Burke. It has been suggested that we more
19 clearly state what we require by a nominal test. That
20 indeed it should reflect the income of the individual and
21 not simply the cost of the services.

22 Senator Moynihan. That's not a central consideration.
23 Can we have some for examples, Ms. Burke?

24 Ms. Burke. One of the examples that the Senator
25 began to describe was that in a state that was brought to

1 our attention was that a \$5.00 per day co-pay was being
2 applied on hospital services. And in that state, the cash
3 benefit under the AFDC program was quite low -- about
4 \$60.00, as I understand it. We would not consider \$5.00
5 a day in a hospital bed for someone receiving only that
6 amount of money per month to be a nominal amount.

7 Senator Moynihan. Well, the \$5.00 would come to
8 roughly \$150.00 a month for a person receiving \$60.00.

9 Ms. Burke. Yes, sir.

10 Senator Moynihan. So there would be a difference.
11 There would be \$90.00 to be got somewhere --

12 Ms. Burke. Yes, sir.

13 Senator Moynihan. -- by investing in saving or some
14 other device.

15 Well, then, can we not get a look at the states? I
16 mean there are some 53 jurisdictions which have payment
17 levels. We are being awfully casual with the lives of
18 very sick, very poor people.

19 The Chairman. No, we are not.

20 Senator Moynihan. I don't mean you are, but I mean
21 we are just --

22 The Chairman. We are not being casual. We are very
23 sensitive in this area. And that's why we suggest that
24 we include report language. I think we are all sensitive
25 to the needs, the concerns, of low income. We want to make

1 certain that what we propose to do -- I might add this
2 provision is strongly supported by the nation's governors.
3 It's a concern raised by the Children's Defense Fund that
4 we are now addressing.

5 Senator Bradley. Mr. Chairman, let me just ask a
6 few questions. In the sheet that we have been provided
7 it says, "Allow states to require nominal co-payments on all
8 services except ambulatory services for pregnant women and
9 children." Is that the only kind of ambulatory service
10 that is exempted now?

11 Ms. Burke. That is the intention of the provision.
12 Yes.

13 Senator Bradley. I think Senator Durenberger has
14 probably seen the study in California on the savings from
15 various co-payment arrangements that showed that you don't
16 really get those savings because people who have their
17 co-payments increased don't use ambulatory services. And
18 actually go into the more expensive hospital care
19 immediately, and costs increase. It is somewhat of an
20 illusion.

21 Ms. Burke. Our concern, Senator, was to protect
22 particularly those individuals who in the past have had a
23 low rate of utilization for ambulatory services. And it
24 was believed that by prohibiting or exempting this
25 particular type of service while allowing the states to

1 apply co-payments on all other services that we might
2 encourage the use of these services by these individuals.

3 Senator Bradley. And the goal is to get them to
4 move out of primary care or emergency rooms and into
5 private physicians?

6 Ms. Burke. The goal is certainly to have them move
7 out of institutions into ambulatory settings which might,
8 indeed, include primary care services and clinics and so
9 forth. Yes, sir.

10 Senator Bradley. The problem that that presents for
11 me is that in some places where you have a very sizable
12 population that uses emergency services and out-patient
13 services, there are no doctors' offices in the neighbor-
14 hood. There are not a whole lot of doctors' office in
15 Newark, for example, but there are a couple of hospitals
16 that accept out-patients, clinics, and also accept
17 emergency services.

18 And my question is what happens when we tell these
19 people that now they can't use the facility unless they
20 have an increased co-payment? If they can't make the
21 payment, where do they go?

22 Senator Durenberger. We don't tell them. That's the
23 point. If Governor Keene tells them or the New Jersey
24 legislature, they can better address the specifics of the
25 kinds of problem that you have just raised. And I guess

1 they would protect in some way that particular kind of a
2 situation. Right now they don't have in effect all the
3 authority that they need to do that.

4 Senator Bradley. Well, that depends on what the
5 budget situation is in the state.

6 Senator Durenberger. Well, they are telling us that
7 in tight budget times, this is the kind of authority they
8 need to make it effective so the people that do have
9 alternatives will use those less expensive alternatives.

10 Senator Bradley. Well, does the word "nominal" do
11 that?

12 Ms. Burke. Senator, the word "nominal" is what is in
13 current law. The intention of the Administration initially
14 was to remove that "nominal" requirement. By retaining
15 the nominal requirement and hopefully by strengthening it
16 through the use of committee report language, we would
17 hope to help direct the Secretary in determining and in
18 examining state programs and co-payment plans. And that
19 that application would be held to be more of a nominal
20 nature than perhaps it has been in the past. That is not
21 a new concept. It is current law. We would hope to retain
22 it and strengthen it.

23 Senator Bradley. What's the difference between, say,
24 "nominal" or "reasonable?"

25 Ms. Burke. I don't know the answer to that question,

1 Senator. It would depend in part on the determination.

2 The Chairman. We would retain current law. Is that
3 correct?

4 Ms. Burke. Yes, to that extent, Senator, we do. And
5 we would hope to strengthen it by directing the Secretary
6 more clearly as to what we would consider to be a nominal
7 amount which would take into account the income of the
8 individual and the cost of the service.

9 Senator Baucus. Mr. Chairman, perhaps I missed it,
10 but what is "nominal" again and how much?

11 The Chairman. Well, we don't set the figure.

12 Ms. Burke. A nominal amount?

13 Senator Baucus. Yes.

14 Ms. Burke. Fifty cents, a dollar in some cases.

15 Senator Baucus. For what? Fifty cents per day or
16 per visit or what?

17 Ms. Burke. It would depend on the service. In some
18 cases, it is currently for drug prescriptions. They apply
19 a \$.50 co-payment. And some \$.50 per visit or a dollar
20 per visit to either an institution or an ambulatory
21 setting. It would depend on the state, Senator.

22 Senator Baucus. Another question here. It seems to
23 me there is another group of very vulnerable people, and
24 that's pregnant women and children and women who are also
25 in-patients as well as ambulatory patients. I am wondering

1 what the additional cost would be or how much revenue would
2 be lost. I don't think it is lost at all. But if the
3 exemption was also applied to in-patients -- pregnant
4 women and children. The figure I have is \$3.1 million.
5 Is that correct?

6 The Chairman. He has \$3.1 million.

7 Ms. Burke. I don't know the basis of that estimate,
8 Senator. And the indication from the Department is they
9 don't have one offhand. I would be glad to look at that
10 and have them examine it and see if that is a fair
11 representation.

12 The Chairman. It sounds like it might be a reasonable
13 change.

14 Senator Baucus. I think it would be, frankly, because
15 after all it is talking about low income people, pregnant
16 women and children.

17 The Chairman. Let's make the change.

18 Senator Bradley. Mr. Chairman, is there any sense
19 that we could get the nominal concept a little more
20 carefully defined? I mean if she said \$.50 is nominal,
21 is there any sense that we can say not more than a
22 specific amount? She said obviously \$5.00, but this one
23 example was too much, and that's why you put nominal in
24 there. Is there any sense that we could say not more than
25 a dollar or two or a dollar fifty?

1 The Chairman. I raised the same question. I'm not
2 certain whether they want to specify it or whether we want
3 to make certain we keep it so tight that we are --

4 Ms. Burke. If I could have an opportunity to ask the
5 Department, Senator, if they have any suggestions with
6 respect to a determination --

7 The Chairman. You might explore that. I couldn't get
8 any satisfaction.

9 Senator Long. Before we move on, I am just kind of
10 concerned now. Assuming someone comes in the hospital and
11 they have got their arm slashed and they need about 20
12 stitches in it and the person is eligible under this
13 Medicaid program, would that be -- I am not talking about
14 a pregnant woman now or a child. Just an adult citizen --
15 would this set the stage for a regulation where that person
16 has either got to pay X amount, \$5.00. And if they haven't
17 got the \$5.00 on them, they just don't get treated?

18 Ms. Burke. Senator, there is currently a provision
19 in the law which allows the states to apply co-payments to
20 certain populations. This provision simply expands that
21 current authority. In some cases, indeed, there are
22 co-payment requirements for someone who would walk in with
23 that kind of treatment need. The states have indicated to
24 us in the past that they have had mixed success with the
25 collection of co-payments. And in most cases, at least in

1 discussions with the governors, individuals are not
2 turned away because of lack of ability to pay that co-
3 payment.

4 But there is authority currently for states to apply
5 co-payments. So this simply broadens that. So that is
6 already an existing law.

7 Senator Long. I understand this is a federal
8 regulation to allow states to require a co-payment. But
9 what I am concerned about is the fact that I don't think
10 you ought to turn people away because they don't have the
11 money in an emergency situation.

12 Ms. Burke. That's correct, Senator. This provision,
13 however, simply broadens current law. They concurrently
14 apply co-payments under Medicaid plans for certain
15 populations. And in some cases because of their inability
16 to collect, indeed, people have not been required. And,
17 in fact, states have in most instances or in many instances
18 not even designed co-payment systems. So they are
19 currently very scattered in terms of their application
20 because of that exact issue that in many cases an individual
21 is not able to pay that amount so the state feels --

22 Senator Long. I just hope that we are not going to
23 provide here where somebody is going to die because they
24 don't have \$5.00. That's the kind of thing that to me
25 doesn't make any sense.

1 The Chairman. We can provide for that.

2 Senator Long. If that's a potential in here, I think
3 we ought to see that doesn't happen.

4 The Chairman. What we are trying to avoid is the
5 people going to the doctor every day sometimes for no
6 good reason except it is a nice doctor.

7 Senator Long. Here is the man standing on the side
8 of the road; there's a doctor's office right over there.
9 And you say why don't you go to that doctor and have him
10 fix your arm? And he says, oh, no, I'm not going to go
11 there. I'm going to go down here to that charity hospital.
12 That happens to be 15 miles away. But he goes down there.
13 He doesn't think they are going to charge him there. And
14 he gets down there and they have got the co-pay on it. By
15 the time we get through with the bureaucracy, the poor
16 fellow might bleed to death. And I just think that at
17 some point, if he hasn't got the money, I think we ought
18 to take care of him.

19 The Chairman. And if they didn't have change, you
20 would be in real trouble.

21 (Laughter)

22 Senator Long. I'm not talking about change. He
23 just doesn't have the money period. He just doesn't have
24 any money in his pocket.

25 Ms. Burke. Senator, we could certainly work with the

1 staff in devising language which would suggest that the
2 Secretary, in examining state programs, would make sure
3 that there is every intention in the case of an individual
4 who could not pay -- of not turning them away from that
5 service.

6 The Chairman. Or that that could be included as an
7 exception in an emergency. Like the other, I don't think
8 we need to even consult with the Secretary on that.

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1 Ms. Burke. Senator Bradley, back to one of your
2 earlier questions. I have been informed that the current
3 regulatory definition of "nominal" is "50 cents to 3
4 dollars," depending on the cost of the service. And we
5 would suggest that we also apply a test of reasonable
6 based on the income of the individual.

7 Item number 2 is listed on page 18 of your book
8 and is an Administration proposal which eliminates the
9 federal matching payments for Medicaid to purchase
10 Medicare coverage, Part B, for individuals who are duly
11 eligible.

12 Under current law a state may choose for those
13 individuals who could receive both Medicare and Medicaid
14 to buy Medicare, Part B, coverage for those individuals.
15 In doing so, Medicare then assumes the cost of those
16 services and takes primacy over the Medicaid program. This
17 proposal would simply eliminate the federal matching
18 payment for that purchase. The states would still have
19 every incentive to purchase Medicare, because it still
20 results in a savings to them because Medicare would pay
21 first.

22 Yes, sir?

23 Senator Bentsen. Mr. Chairman, on that one I
24 have some serious problems in my own state. You are talking
25 about the elderly poor who would qualify for Medicare

1 and Medicaid and trying to get the Medicare services. And
2 if you get into a situation where the Federal Government
3 doesn't do the buy-in, and I suppose that would be -- what?
4 Twenty-five percent?

5 Ms. Burke. It would depend on the state,
6 Senator, in terms of the matching amount.

7 Senator Bentsen. In my state I think it is
8 25 percent.

9 But I run into this kind of a problem: we have
10 a constitutional situation on a cap as to how much can be
11 expended for welfare; and if you shift this burden back to
12 the states, then, I don't know how we would qualify. It
13 seems to me then that physicians services would, insofar as
14 the elderly poor who qualify for both Medicare and Medicaid,
15 we would have something that would really be a burden to
16 them.

17 Ms. Burke. Senator, there indeed would be a
18 shift with respect to cost sharing for the Medicaid
19 program. They would incur higher costs in the sense of
20 absorbing the full costs of purchasing the coverage; but
21 the coverage purchased still results in a savings to the
22 Medicaid program, because Medicare then assumes the
23 responsibility for Part B services for those individuals.
24 But indeed it would be an initial shift to the states of
25 the cost alone of purchasing that coverage.

1 Senator Bentsen. And so I run into the
2 limitation that I have from our constitution, and I don't
3 know how it is accomplished then, how we achieve the
4 objective.

5 Ms. Burke. A constitutional question would indeed
6 be a state issue that I don't think we could resolve unless
7 some modification could be made to allow for the states
8 that had constitutional problems. We could check with the
9 Department and find out if there would be a way to do that,
10 provide you time to make that change.

11 Senator Bentsen. About the only way you could do
12 it would be some kind of an exception, and I'm not sure
13 how you would accomplish that.

14 My problem, Mr. Chairman, is that we have a
15 constitutional limitation on the amount of money expended
16 on welfare. And when you talk about a buy-in and a shift
17 of the burden back to the state on the physicians' services,
18 on that part of it, we run into the cap. So it gives me
19 a problem.

20 The Chairman. Is there someone in the Department
21 who could respond to that concern?

22 Senator Durenberger. I think this comes up every
23 year, Mr. Chairman. I think one of these years we
24 probably ought to have a hearing on the Texas Constitution
25 and its applicability to welfare and Medicaid, and so forth,

1 within this federal system. I would be curious to know the
2 answers to the questions that are raised by the Senator
3 from Texas, too.

4 The Chairman. We will ask the Council to look at
5 it.

6 Ms. Burke. Item number 3 is listed on page 21
7 of your blue books and is an Administration proposal which
8 would allow earlier recoupment for long-term care costs
9 for individuals by allowing the states to apply liens on
10 property where the property is no longer needed by the
11 recipient, the spouse, or minor children.

12 Senator Long. On property, I don't particularly
13 object to the lien on the real property, but I've got some
14 doubts about the liens on personal property. Does this
15 permit them to have this?

16 The Chairman. The lien is on real estate, isn't
17 it?

18 Ms. Burke. Yes, sir.

19 Senator Long. Is this real estate and not
20 personal property?

21 Mr. Neuschler. No, Senator. Homes and other
22 real estate.

23 Senator Long. So the kind of thing that offends
24 me is the type of thing that has happened in years gone by
25 when they take the ring off a dear old person's finger and

1 sell that to get some dough for the state. I just think we
2 ought to pass that type thing up. And that's not in here,
3 I take it?

4 Ms. Burke. No, sir.

5 The Chairman. Rings are exempt.

6 Senator Chafee. Mr. Chairman?

7 The Chairman. Senator Chafee.

8 Senator Chafee. Sheila, there would be no
9 problems here of the person gaining access to their real
10 property? Take a situation where somebody is
11 institutionalized in some way and a lien is placed on the
12 real estate, that lien is only effective when the property
13 is sold or the person dies?

14 Ms. Burke. Yes, sir.

15 Senator Chafee. So the occupancy of the home
16 when the person returns to it wouldn't be affected in any
17 way?

18 Ms. Burke. No, sir. That is certainly our
19 impression.

20 Senator Chafee. Thank you.

21 Ms. Burke. Item number 4 is listed on page 32
22 of your blue book and is a modification of an
23 Administration proposal. The Administration proposal would
24 have over a period of years required that the states
25 reduce their error rates to zero. This proposal would

1 require that the states reduce their error rates to
2 3 percent in Medicaid and retain them at that amount.

3 Senator Bradley. Could you tell me how many
4 states now have a 3 percent error rate?

5 Ms. Burke. I believe 19 have less than 3 percent,
6 Senator. Nineteen have less than 3 percent.

7 Senator Bradley. Mr. Chairman, I was wondering,
8 is there any way that if we have to go with the 3 percent,
9 is there any way that we could exempt or exclude from the
10 definition of the error rate what is really a technical
11 client error, say a client loses his Social Security card,
12 which is not really an error rate.

13 The reason I bring it up is because my state,
14 New Jersey, actually has a very good error rate. I mean,
15 we are down to 4 percent, and we are improving. But some
16 of these things are really technical errors. They are not
17 problems with substantive error.

18 The Chairman. Well, we have been battling this
19 provision in the food stamp markup, where the Administration
20 has suggested we go from 11 percent to zero in three years,
21 which is impossible -- you have so many people moving in
22 and out of that program.

23 I think we have now reached an agreement, in fact
24 we voted on it yesterday, to make it 5 percent at the end
25 of the third year instead of zero. We didn't address the

1 technical errors. I wonder if the Department has any
2 comment? I don't know how you define "technical," but --

3 Mr. Neuschler. Senator, I can't speak to the
4 AFDC's side, but on the Medicaid side we don't really have
5 technical errors. The Social Security number is not a
6 technical error in the field from the Medicaid side.

7 Senator Bradley. It is not a technical error?
8 What is it, then?

9 Mr. Neuschler. There is no requirement in the
10 Medicaid statute at the moment that the Social Security
11 number be gotten in order for the person to be eligible.
12 We don't address the issue in Medicaid.

13 Senator Bradley. If I can give you a list of
14 what I would call "technical errors," maybe we could
15 consider that. Or maybe we could make it 4 percent instead
16 of 3 percent. The fact of the matter is that states are
17 really improving.

18 The Chairman. I haven't checked with the
19 governors in this area, but we found that states were
20 very willing to stay in the food stamp program. It's going
21 to mean a lot of work, but they were willing to accept that
22 discipline rather than to try to find money in other areas
23 of the program. What did the Administration suggest here?
24 Zero?

25 Ms. Burke. Originally, to move to zero over a

1 period of years. The current average error rate in Medicaid
2 nationwide now is 4.1 percent. The Michael Amendment,
3 of course, would have required them at 4 percent. This
4 drops them to 3 percent.

5 Senator Bradley. The Michael Amendment was
6 4 percent?

7 Ms. Burke. Yes, sir.

8 Senator Bradley. Why don't we just go with the
9 Michael Amendment?

10 Senator Moynihan. Mr. Chairman, can we not ask
11 that? In large systems there is a certain amount of error.
12 It is statistically a well-known phenomenon. You read any
13 poll, and they say, "this poll is accurate within a range
14 of five-tenths of a percent or zero five-tenths," the
15 range of confidence in accuracy. You do not have large
16 systems without mistakes in them.

17 I don't know what a statistician would say, but
18 I think 3 percent is lower than is likely to be achievable.
19 Four percent is probably about the limit. I would wonder
20 what Mr. Bentsen thinks. He has been in a profession
21 involved.

22 Senator Durenberger. Well, Mr. Chairman, if you
23 go over the list you will find a variety of things that are
24 achievable. I was just looking at Wisconsin, which went --
25 I think I can read -- from 6.2 down to 3.5; Ohio, which is

1 right above it, went from 3.8 down to 2.1; my own state
2 went from one-half of 1 percent to a third of 1 percent.

3 That's not all of them. But when you put your
4 mind to it, it appears that it is possible. And
5 particularly, I think, with regard to Medicaid as opposed,
6 perhaps, to food stamps or some of the other programs,
7 this is an area in which you really can get the error rate
8 down. I think 3 percent is very fair.

9 Senator Moynihan. I won't disagree with respect
10 to Medicaid, but can we accept the idea that the error
11 rate is a function not just of administrative competence and
12 energy but of the nature of the problem -- the error rate
13 in systems where large numbers of people move in and out,
14 in distress, not under institutional control, and so forth?
15 To assume you don't have a large error rate is to assume
16 you have a different kind of problem, and it really is a
17 disguise for the reducing of federal expenditure.

18 Senator Durenberger. New York is 4.6 down to
19 2.7.

20 Senator Moynihan. We have done well in Medicaid
21 and Medicare. But there you have institutional controls
22 and a different population -- generally speaking an older
23 population.

24 Senator Durenberger. Which state are we worried
25 about, then?

1 Senator Byrd. It seems to be the smaller states
2 that have the greater error rate.

3 Senator Durenberger. Delaware is at 15.4 in
4 the last six months.

5 Senator Bradley. For example, the error rate
6 here listed for New Jersey is 4.4 percent from October to
7 March 1981. Now I am informed by the state that that has
8 been reduced to 4 percent. So things are improving.

9 At the same time, if you immediately jack it
10 down to 3 percent, you pull \$15 million out of the state.
11 I mean is the question: Do you penalize the state that
12 is actually making real improvements?

13 The Chairman. Is this an immediate drop to 3?

14 Ms. Burke. It is Fiscal Year 1983, Senator.

15 Senator Chafee. And what happens if they don't
16 make it?

17 Ms. Burke. The penalty, Senator, is the amounts
18 in excess of the error rate, basically.

19 The Chairman. How many states are over 3 now?

20 Senator Bradley. Only 19 are at 3.

21 Ms. Burke. Nineteen are at or below 3.

22 The Chairman. What we might want to do there,
23 which we did in the food stamp program, is to maybe make
24 it 4 percent in 1983 and 3 percent thereafter, because we
25 did that in the food stamp area. We had three stages.

1 Senator Bradley. Well, that gives us another
2 year to get down to 3 percent.

3 Senator Durenberger. Well, are we worried about
4 the people coming from 4 to 3, or are we worried about the
5 people that are at 12 or 10 and we would like to get them
6 down in steps, perhaps? I am not sure where the concern is
7 here. That would suggest a different approach, which would
8 be that you would use 3 percent but qualify it in some
9 fashion for those that have too far to go to get there.

10 Senator Bradley. Well, I guess there, the
11 question would be how you would define "improvement." If
12 you are going from 5 to 4, that's a 20 percent improvement.
13 If you are going from 10 to 11, that would be a less
14 percent of improvement.

15 Senator Bentsen. It seems you are also forgetting
16 those that weren't diligent, that didn't work the job, if
17 you do that.

18 Mr. Chairman. Let's leave it at 3 percent, and
19 maybe we can figure out some way to --

20 Senator Bradley. Is there any way we could do it
21 the way you suggested -- 4 percent in 1983 and then 3
22 percent beyond?

23 Senator Durenberger. My concern is as much for
24 those that are already under 3, whose scarce dollars are
25 going to those at 12 or 10 or 9.

1 Senator Bradley. Oh, no. I am saying, if you
2 made it 4 percent in 1983 -- not 12, but 4 percent in
3 1983 -- then beyond go down to 3 percent, and then however
4 you wanted to calculate a sliding scale to define
5 "improvement."

6 Senator Durenberger. Well, I would rather go
7 to 3 and then work with a sliding scale for everybody
8 else. I think that would be a lot fairer. It accomplishes
9 the same thing.

10 Senator Long. I was trying to recall those
11 figures that they gave us, and I wish somebody would help
12 me recall what that was. This is somewhat different, but
13 I think it may be relevant to what we are talking about.

14 Back in the days we were talking about the
15 Family Assistance Plan, that the Administration kept coming
16 up with the figures that less than 4 percent of that case
17 load was detectable fraud. Later on I finally found out
18 what they had in mind. As I recall, over 25 percent of it
19 was fraud, but they were only catching about 20 percent of
20 the fraud, and so only about 4 percent of it was
21 detectable fraud. Does somebody recall what those figures
22 were? I was just trying to recall what that was.

23 Do you recall that, Mr. Stern, for example?

24 Mr. Lighthizer. I do recall at one point that the
25 Department was saying that the amount of fraud was quite

1 small, based on their quality-control surveys at the time.

2 Senator Long. But I recall, basically we were
3 being told that there was only a very small percent of
4 "detectable fraud." And what we found was there was plenty
5 of fraud, they just weren't detecting it. So, therefore,
6 there was very little detectable fraud, and we were led to
7 believe there was very little fraud.

8 Now, in this error situation, I would take it that
9 you are not counting as error the situations where the
10 people are misrepresenting the case and you are not
11 catching it. You are not counting that, are you? Is that
12 right?

13 (No response)

14 Senator Long. That is what I am talking about.
15 Let's us talk about that thing that concerned me when I
16 found out about it, that there was only a certain percent
17 of "detectable fraud." Well, they weren't detecting 80
18 percent of it. So you could only call the 20 percent you
19 were catching error. Is that right?

20 Ms. Burke. Yes, that is correct, Senator.

21 Senator Long. Isn't that right?

22 Mr. Neuschler. Senator, the error rates are
23 based on errors that are found when a more intense
24 determination of eligibility is done. Now, if that more
25 intense determination also does not turn up a significant

1 fact, then something has been missed. Yes. I can't speak
2 to what the numbers might be.

3 Senator Long. I mean, the error you are talking
4 about is what you find when you take a closer look. But
5 the closer look doesn't necessarily mean that you are
6 going to find -- for example, if it is "detectable fraud,"
7 if you try to detect it and don't detect it, you can't
8 count that as an error if you didn't catch it, can you?

9 Mr. Neuschler. That's correct, Senator.

10 Senator Mitchell. Mr. Chairman, could I ask,
11 does the error mean just someone who is not eligible who
12 is declared as eligible? Could it not mean the opposite
13 as well?

14 Mr. Neuschler. Senator, in the Medicaid program
15 the errors that are subject to the penalty are defined as
16 where someone has been found eligible who should not have
17 been, or where someone is a spend-down case and their
18 liability for the cost of care has been misdetermined.

19 We do not include in the error rates cases where
20 the person has been determined ineligible but should have
21 been eligible. That is not included because we are looking
22 at misspent dollars.

23 Senator Moynihan. Could I ask, Mr. Chairman, how
24 many people are fraudulently in the hospital or get
25 fraudulent operations?

1 Senator Long. Senator, you are missing the point.
2 We are talking about fraudulently on the welfare rolls.

3 Senator Moynihan. No we are not. We are here
4 on Medicaid, Senator. I appeal to Mr. Durenberger. Are
5 we here on Medicaid? How many people are fraudulently in
6 the hospital?

7 The Chairman. I don't know whether we are
8 talking about "fraud," are we? We are talking about
9 errors.

10 Senator Moynihan. How many people are erroneously
11 in the hospital?

12 Senator Long. Well, sir, if you just want to
13 miss the point, why miss the point; but don't confuse me,
14 because you are not going to. I understand what I am
15 talking about, whether you do or not.

16 Senator Moynihan. Mr. Chairman, we want to get
17 to what you were talking about this afternoon.

18 Senator Long. Hold on just a minute, and let me
19 just make this point clear: Somebody lies to you, and
20 therefore the person is on the welfare roll. So he goes
21 down and goes to the hospital and claims the Medicaid
22 benefits. That's what I am talking about. I am not
23 arguing about him being sick; I am arguing about the fact
24 that he shouldn't have been on the welfare rolls to begin
25 with. I thought that was what we were talking about.

1 Ms. Burke. Yes, sir.

2 Senator Long. Well, there you are.

3 (Laughter)

4 The Chairman. Are there other items in this
5 area?

6 Ms. Burke. There is one additional item,
7 Senator, that we did have costed out, that reflects an
8 estimate on the Part B premium proposal which we would
9 hold at 25 percent of program cost. If you were to round
10 that premium amount up to the nearest dollar, the premium
11 for example next year will be \$12.30, if you were to round
12 it up in each year, the savings in the first year would be
13 \$275 million; in the second year, \$380 million; and in
14 the third year \$805 million. That is the result of
15 rounding up the premium, up to the next full dollar amount.
16 So it would go from \$12.30 to \$13.00. From \$13.50 to
17 \$14.00, for example.

18 Senator Danforth. For an individual, as far as
19 an individual is concerned, it would mean he would pay
20 70 cents in a year's time?

21 Ms. Burke. No, per month, Senator. That premium
22 is a monthly amount.

23 Senator Baucus. Mr. Chairman, do we have this
24 proposal before us? I don't see it anywhere.

25 Ms. Burke. It was just a cost estimate that we

1 did, Senator, on a variation of that 25 percent. It is
2 the 25 percent, and then just rounding up that amount. It
3 is just a modification of that proposal that we ran.

4 The Chairman. It is not on the list.

5 Ms. Burke. It is not on the list, Senator, as
6 an item.

7 Senator Moynihan. Would you say it again,
8 slowly?

9 Ms. Burke. Yes, Senator.

10 The proposal that we have suggested and is
11 described in your package would set the Part B premium at
12 25 percent of program costs. This provision would round
13 that premium to the nearest dollar so that the premium
14 calculation, which is estimated at \$12.30 for next year,
15 would become \$13.00. These savings are a result of that
16 combined 25 percent plus the rounding up.

17 The Chairman. I think maybe we should just stay
18 with the earlier.

19 Senator Moynihan. Mr. Chairman, are you saying
20 you thought we should stay with the \$12.30?

21 The Chairman. Yes.

22 Senator Moynihan. So this is a cost proposal?

23 The Chairman. It is not an item. It is just
24 a suggestion that has been raised.

25 Senator Chafee. How much money is involved,

1 Sheila?

2 Ms. Burke. Two hundred and seventy-five million
3 dollars in the first year versus \$70 million under the
4 other proposal. So it is an addition of \$205 million.

5 The Chairman. Senator Chafee had a question on
6 the first item, on Medicare.

7 Senator Chafee. Yes. I am worried about the
8 proposal there. Let's assume that a worker retires at
9 65. He retires on his birthday, and his birthday occurs
10 on the 15th of the month. Now, under this proposal,
11 number one, his Medicare eligibility would commence on
12 the first day of the following month.

13 Ms. Burke. That is correct, Senator.

14 Senator Chafee. Well now, he is left in the
15 lurch there for the 15 or 16 days.

16 Ms. Burke. To the extent that his private
17 employer-based coverage didn't carry him for that period
18 of time, yes, sir.

19 Senator Chafee. That's right. And there is no
20 certitude, first, that he has the coverage.

21 Ms. Burke. That is correct.

22 Senator Chafee. With the private employer; or,
23 second, that there is the 30-day additional coverage.

24 Ms. Burke. That is correct, Senator. Our
25 understanding in talking with the insurance industry is that

1 in most cases, to the extent that they have employer
2 coverage, which is the first assumption, that it generally
3 covers them to the period of time Medicare picks up
4 rather than cutting off at age 65. But there may be
5 individuals who have no coverage, in which case there would
6 be a gap or a delay between the period of time they turn
7 65 and that next month.

8 Senator Chafée. Well, Mr. Chairman, that gap
9 could be extremely serious, first, if they didn't know
10 about it, and, second, even if they did know about it and
11 they didn't have the coverage.

12 Ms. Burke. They would know, Senator. This only
13 applies to new beneficiaries, not current. So that would
14 certainly be something they would be told.

15 Senator Chafee. Oh, I appreciate that.

16 Ms. Burke. They would be told when their
17 Medicaid coverage began.

18 Senator Chafee. Yes, but there is not much they
19 can do about it. You can't get 15 day coverage from
20 somebody.

21 Ms. Burke. No, Senator.

22 Senator Baucus. And when would they be told?
23 Would they be told when they are trying to qualify?

24 Ms. Burke. When their information with respect
25 to Medicare coverage would be made available, which is

1 usually prior to the time at which it would take place.

2 Senator Baucus. But probably, though, there
3 would be a short period of time between the time they are
4 told and the time they would be eligible, I would guess.

5 Senator Chafee. Well, Sheila, my suggestion is
6 that we try to cover this situation in some way. Of
7 course, ideally, I suppose the proposal would be they would
8 be entitled to it, absent coverage by their former plan.
9 Sure, it is going to affect your revenue, but I just don't
10 think we can leave these people exposed like that.

11 Senator Baucus. Mr. Chairman, if the Senator
12 will yield, I don't see the equity in this. I mean, if
13 somebody is entitled to Medicare benefits, he or she ought
14 to be entitled, not just because his or her birthday
15 happens to fall mid-month rather than at the end of the
16 month. I just don't see the equity or the decency in this.

17 Ms. Burks. My understanding, Senator, is this
18 also places Medicare consistent with the Cash Benefit
19 Program, and the benefits begin I believe with the first
20 month following the month in which an individual turns
21 65.

22 Senator Baucus. Well, two wrongs don't make a
23 right here. I see the logic, but I don't see the equity
24 or the decency.

25 Senator Chafee. Well, the Cash Benefit I think

1 can be differentiated. In the Cash Benefit you are losing
2 a cash benefit of an X-amount for a specified time; but
3 the consequences of a severe injury occurring in this
4 period -- it could be as much as 30 days if somebody's
5 birthday is on the 1st.

6 Ms. Burke. That is correct, Senator.

7 Senator Chafee. Mr. Chairman, I just want to say
8 that I'd like to see this solved. And if we have to reach
9 a goal, I would far rather have these people covered and
10 go to the rounding figure which we just dropped previously,
11 which is far more money, than to have these people
12 exposed like this.

13 The Chairman. Let's find out quickly from the
14 Department if in fact there is no gap. In other words, if
15 there is private coverage it is not a problem. But if
16 they are just cut off the day they leave work, and there
17 is a gap of 10 days, one day, or 30 days, they will correct
18 that. We need to see what impact that has on revenues.

19 Senator Mitchell. Mr. Chairman, could I inquire?
20 We are talking about three different possibilities here:
21 the current law, which is the first day of the month in
22 which they reach 65; the proposed change, which is the first
23 day of the following month; the third and obviously
24 most logical alternative is to make them eligible on the
25 day on which they turn 65. That would treat everybody in

1 the country equally. Is that an administrative problem?

2 Ms. Burke. We can ask the Department to look at
3 whether they can do that administratively, Senator, and
4 that would be that Medicare coverage would begin on the
5 day in which you turn 65?

6 Senator Mitchell. Isn't that the most logical
7 and most fair alternative which would treat everybody the
8 same?

9 Ms. Burke. We can ask them whether or not they
10 can administer that.

11 Senator Chafee. It is dangerously simple.

12 The Chairman. Well, I think it is administrated.
13 It is an option, obviously, for us to consider. I think
14 there was a question of administration, but I think that
15 there still should be at least half of the savings, I would
16 think.

17 Senator Mitchell. That's right.

18 The Chairman. Well, are there other questions
19 on the items in Medicare and Medicaid?

20 We will address the concern expressed by
21 Senator Bradley on the error rate if we can. We will
22 address this issue.

23 With the change made, Sheila, in the working aged
24 and perhaps some change in this provision we have just
25 discussed, what would be our agenda? I would like to vote



1 The Chairman. I think so, too. She does an
2 outstanding job, and we appreciate it.

3 Ms. Burke. Thank you.

4 Senator Grassley. Mr. Chairman?

5 The Chairman. Senator Grassley.

6 Senator Grassley. We have then made the change
7 for the 25 employees or less?

8 The Chairman. It is changed, suggested by
9 you and Senator Bentsen. It has been made. I think you
10 were interested in that in addition to the rural
11 hospitals. Yes, that has been made. That's why we are
12 adding up. It reduces the savings that we are checking.

13 Senator Baucus. Mr. Chairman?

14 The Chairman. Senator Baucus.

15 Senator Baucus. Mr. Chairman, I was wondering
16 if I could suggest a tentative amendment, item 11 on the
17 list, Extension of 223 to Ancillary Services. That is
18 to provide for a provision that providers can bring an
19 appeal in the jurisdiction of the District Court where the
20 provider's home office is or where the principal business
21 of a group of providers happens to be, and bring an appeal
22 under the section.

23 The Chairman. Well, where do they bring it now?

24 Senator Baucus. Now it has got to be in a
25 District Court.

1 The Chairman. Do we have jurisdiction in that?

2 Senator Baucus. Well, I don't know whether we
3 do or not, but we certainly try. Right now the District
4 Court of a single provider -- say that a group of providers
5 are bringing an appeal to whatever board that is.

6 Ms. Burke. This is with respect to that PRB,
7 is that correct, Senator?

8 Senator Baucus. That is correct.

9 Ms. Burke. It is cases pending before the
10 Provider Review Board. And if it is indeed a chain or an
11 organization with a number of units, they generally are sent
12 to a District Court in their area or sent to the District
13 Court in the District of Columbia rather than the PRB in
14 an area. And you would suggest that they be allowed at the
15 Secretary's discretion to go to an area closer to the home
16 base?

17 Senator Baucus. That is correct.

18 The Chairman. I don't have any quarrel with that.
19 I don't know if they have jurisdiction, but --

20 Ms. Burke. They do.

21 Senator Baucus. Well, we passed this provision
22 out of this committee last year, or a year ago.

23 The Chairman. What we might do is adopt it and
24 then check with Judiciary.

25 Senator Baucus. Last year this committee did

1 adopt this provision.

2 The Chairman. We are both on the Judiciary,
3 and with Senator Grassley we have a pawn.

4 Are we all right?

5 Ms. Burke. The Administration will doublecheck.
6 We don't have any objections to it. We will check with
7 General Counsel.

8 The Chairman. I am talking about the numbers.

9 Ms. Burke. Oh.

10 The first year's savings are now, in the Medicare
11 and Medicaid programs, 3.8, 3.5; in Fiscal Year 1984,
12 5.288; and in Fiscal year 1985, 6.396.

13 The Chairman. For a total of -- ?

14 Ms. Burke. For a total of 15.5.

15 Senator Moynihan. Would you run those through
16 again for us, Ms. Burke?

17 Ms. Burke. Yes, sir.

18 For Fiscal Year 1983, 3.835; for Fiscal Year
19 1984, 5.288; for Fiscal Year 1985, 6.396, for a total of
20 15.5.

21 The Chairman. Which is the reduction in savings
22 at about a billion dollars over the proposal we have in our
23 hand?

24 Ms. Burke. Yes, sir.

25 The Chairman. That's because of the 223 changes:

1 75/25.

2 Ms. Burke. The working-aged change.

3 The Chairman. The working-aged change; and the
4 hospital change does not change the numbers, is that
5 correct? Rural hospitals?

6 Ms. Burke. Yes, sir.

7 The Chairman. And then we will change the
8 concern addressed by Senator Bradley and also I think
9 Senator Boren on error rates.

10 Are there others?

11 Senator Durenberger. Mr. Chairman, if we are
12 moving to --

13 The Chairman. I think, before we do that,
14 Senator Packwood wanted a separate vote before we did
15 anything on the home health care.

16 Senator Packwood. I do on Number 3, the Home
17 Health Co-payments. Based upon the evidence we have got
18 to date, Mr. Chairman, it is the cheapest form of medical
19 coverage we get, and I hate to see any deterrents placed
20 in its way. I would be willing to trade off the co-payment,
21 if you wanted, by moving up the nursing home co-payment
22 from day 21 to day one, but for the moment I would just
23 move to strike item number 3.

24 The Chairman. Do you wish a separate vote on
25 that?

1 Senator Packwood. Yes.

2 The Chairman. Yeas and nays?

3 Senator Packwood. Yes.

4 The Chairman. The Clerk will call the roll.

5 Senator Bentsen. Are we going to see any
6 alternatives to that? You are talking about a total repeal
7 of that provision.

8 Senator Packwood. I am talking about a repeal,
9 Lloyd, of number 3, the Home Health Co-payments.

10 Senator Bentsen. Oh, I understand what you are
11 talking about. I had heard that there might be other
12 amendments that might not go quite that far. Are there
13 others?

14 The Chairman. The Administration's proposal was
15 different. It started at the first visit.

16 Senator Packwood. And it was 5 percent. It was
17 significantly lesser payments.

18 Senator Long. Well, why don't you propose your
19 alternative?

20 Senator Packwood. Well, I will propose it that
21 way first, then, Mr. Chairman.

22 I would propose -- and I've got the figures --
23 that you move the co-payment on the nursing home days.
24 This is a letter from HHS from Dr. Caroline Davis, the
25 Administrator of the Health Care Financing Administration

1 Division.

2 I would move the co-payment on Skilled Nursing
3 Home Care from day 21 to day one, and it would save in
4 1983, 1984, and 1985, \$125 million, \$190 million,
5 \$220 million, which as you can see is slightly more than
6 the Home Health Co-payment.

7 Ms. Burke. Senator, may I ask, is the
8 co-payment which you wish to move forward the current
9 co-payment? Is it \$32 per day?

10 Senator Packwood. Yes.

11 Senator Durenberger. Mr. Chairman?

12 The Chairman. Senator Durenberger.

13 Senator Durenberger. Let me try to just very
14 briefly explain what we are doing here.

15 I think over the year Bob and others have
16 focused our attention on the preferability of home health
17 care, both from a cost and a care standpoint. What we
18 now have is a system in which people move from acute care
19 in a hospital to, in many cases, intermediate care in a
20 nursing home of some kind, and then hopefully, with the
21 right kinds of incentives, into home health care.

22 The concern that I of course have, if that is
23 the usual transition, which it is, the concern I have about
24 Bob's proposal to move the already-substantial co-pay for
25 nursing homes up to the first day is that it will encourage

1 people to stay in the hospital rather than transist to
2 home health care through a nursing home facility. So that
3 is why I think not moving the co-pay on intermediary care
4 becomes important. People can make their choices, then,
5 about where they want to go.

6 You may be right: the 20 percent on the 20th
7 day is too high, and maybe we should go to 10 percent on
8 the 20th day, or something like that.

9 Senator Packwood. I would rather go to the
10 Administration's proposal than to go to 10 percent on the
11 21st day.

12 The Chairman. Tom, do you wish to be heard
13 briefly?

14 Mr. Donnelly. If I could comment, Senator.

15 The Administration really believes that it is
16 necessary at this point in time to have some kind of a
17 co-payment feature in the Home Health category. Now, you
18 are quite correct and have said, we proposed a somewhat
19 different proposal than is currently in this package, and
20 we could accept either one. We certainly aren't quarreling
21 with either of the numbers.

22 But the philosophy is that rather than move
23 back in the direction of the skilled nursing facilities
24 that we really do need at this point in time to deal with
25 the home health issue because of the question of

1 overutilization.

2 The Chairman. Briefly, what does your proposal
3 do?

4 Mr. Donnelly. Our proposal is 5 percent
5 beginning with the first visit. And I believe the savings
6 are pretty close, Sheila. It's not a question, I think,
7 Mr. Chairman, of the savings issue per se.

8 The Chairman. No, I understand that.

9 Ms. Burke. Let me just correct you. The savings
10 are substantially different. As I recall, yours saves in
11 the first year \$35 million, and ours saves \$100 million.

12 Mr. Donnelly. Correct.

13 Ms. Burke. So they are substantially different
14 in savings.

15 Mr. Donnelly. That is correct. I stand
16 corrected on that. But I think the philosophy is the
17 issue here, to deal with the question whether or not
18 there is going to be extensive overutilization in home
19 health services.

20 We are all in agreement, I think, with the Chair
21 and the committee with respect to home health being a
22 very viable option, a very viable alternative.

23 The Chairman. Is yours better from a policy
24 standpoint than ours -- forgetting about the dollars?

25 Mr. Donnelly. The rationale, Mr. Chairman, behind

1 our proposal was a modest co-payment but one that was
2 clearly a signal from the beginning that there should be
3 a kind of mental participation in the question of home
4 health.

5 Senator Packwood. I will tell you, Mr. Chairman,
6 why it is between the two I would rather go with the
7 Administration's; the people who are requiring home health
8 care beyond 21 days are the ones that genuinely are
9 probably going to require it for a long period of time.
10 They are not malingerers. They are not having the nurse
11 come for 10 days; they are having her come for a year,
12 twice a week, because they have to.

13 And in terms of cost, I would rather spread it
14 over everybody that gets home health care than to say,
15 "Only for those who desperately need it are we now going
16 to charge a significantly higher percentage."

17 The Chairman. What are the numbers again? I am
18 not overconcerned from the standpoint of the budget, but
19 is it \$35 million the first year?

20 Mr. Donnelly. It is \$35 million, \$65 million in
21 1984, and \$75 million in 1985.

22 The Chairman. As opposed to -- ?

23 Ms. Burke. One hundred in 1983, 165 in 1984, and
24 190 in 1985.

25 Senator Packwood. All of which falls on people

1 who need the care after 21 days.

2 The Chairman. If we adopt the Administration's
3 approach do we still comply with using PIP, of course,
4 with the budget requirement?

5 Senator Bentsen. Mr. Chairman, while she is
6 looking at that, I agree with Senator Packwood on this.
7 And, as I understand it, at 5 percent you would be talking
8 at about \$2.40, or something like that.

9 Senator Packwood. Right.

10 Senator Bentsen. I can understand the reason
11 to have the understanding that there is a cooperative
12 payment there, and that that comes from the first visit;
13 but I do get concerned about those that are quite seriously
14 ill and having kind of an escalation in costs later.

15 Senator Packwood. I would move to amend my
16 motion, Mr. Chairman, to adopt the Administration's
17 position. It is about a 5 percent co-payment from day one,
18 but it is for everybody.

19 Mr. Chairman. Is there objection to that?

20 Senator Bradley. For everyone in home health?

21 Senator Packwood. Home Health Care. Yes.

22 Senator Durenberger. That's fine with me,
23 Mr. Chairman. I had thought the other one might be better.

24 Mr. Chairman. Then the vote will be on the
25 substitute, which would be the Administration's proposal.

1 Senator Bradley. Could we get a sense of what
2 is the vote? That you have amended the Administration's
3 proposal?

4 Senator Packwood. I have amended the proposal,
5 Bill, that is on this sheet we have been working from, to
6 substitute the Administration's proposal, which I think is
7 on page 12 of the blue book.

8 It is a 5 percent co-payment, but it is from
9 day one, as opposed to the co-payment under number 3,
10 which is what? Twenty percent?

11 Ms. Burke. Yes, sir.

12 Senator Packwood. Twenty percent from day 21.
13 You see the difference in cost. For the three fiscal
14 years, under the Administration's proposal it is 35, 65,
15 75 million; but it is spread among everybody who receives
16 home health care. The one on the sheet is 100 million,
17 165, 190, but it falls totally on those who are getting
18 care 21 days or after.

19 The Chairman. Senator Mitchell?

20 Senator Mitchell. Mr. Chairman, my only point
21 is that the vote we will now cast will express a preference
22 between the Administration's proposal and the one in this
23 current packet.

24 The Chairman. Correct.

25 Senator Mitchell. I would simply like a vote in

1 which those of us who are opposed to either of those could
2 express ourselves as well.

3 I agree with Senator Packwood that the
4 Administration's is better than this one, but I am opposed
5 to either of them, and I would like to be able to express
6 that as well.

7 The Chairman. Well, is there any objection to
8 just adopting the Administration's proposal?

9 (No response)

10 The Chairman. Without objection.

11 Senator Baucus. Mr. Chairman, I think we should
12 vote on it.

13 Senator Long. No objection, but why don't we
14 just agree to substitute the Packwood motion for the
15 Administration's proposal, and then we will vote on the
16 one that remains.

17 Senator Baucus. All right. Then vote on the
18 remaining motion, which is the Administration's proposal?

19 Senator Long. Right.

20 The Chairman. Do you want a record vote on
21 that?

22 Senator Baucus. Yes.

23 The Chairman. The Clerk will call the roll.

24 The Clerk. Mr. Packwood?

25 (No response)

1 The Clerk. Mr. Roth?
2 The Chairman. Aye.
3 The Clerk. Mr. Danforth?
4 Senator Danforth. Aye.
5 The Clerk. Mr. Chafee?
6 Senator Chafee. Aye.
7 The Clerk. Mr. Heinz?
8 The Chairman. Aye. Oh, pass; excuse me.
9 The Clerk. Mr. Wallop?
10 The Chairman. Aye.
11 The Clerk. Mr. Durenberger?
12 Senator Durenberger. Aye.
13 The Clerk. Mr. Armstrong?
14 The Chairman. Aye.
15 The Clerk. Mr. Symms?
16 The Chairman. Aye.
17 The Clerk. Mr. Grassley?
18 (No response)
19 The Clerk. Mr. Long?
20 Senator Long. Aye.
21 The Clerk. Mr. Byrd?
22 Senator Byrd. Aye.
23 The Clerk. Mr. Bentsen?
24 Senator Bentsen. Aye.
25 The Clerk. Mr. Matsunaga?
(No response)

1 The Clerk. Mr. Moynihan?
2 Senator Moynihan. No.
3 The Clerk. Mr. Baucus?
4 Senator Baucus. No.
5 The Clerk. Mr. Boren?
6 (No response)
7 The Clerk. Mr. Bradley?
8 Senator Bradley. No.
9 The Clerk. Mr. Mitchell?
10 Senator Mitchell. No.
11 The Clerk. Mr. Chairman?
12 The Chairman. Aye.
13 (Pause)
14 Senator Packwood. I voted. Did you record
15 me?
16 The Chairman. Is Senator Packwood recorded?
17 The Clerk. No, he is not recorded.
18 Senator Packwood. Aye.
19 The Chairman. Packwood, aye.
20 Senator Grassley? No?
21 Twelve yeas, 5 nays. The amendment is agreed
22 to.
23 Senator Packwood. Now, do I understand,
24 Mr. Chairman, there is now going to be a motion to strike
25 it altogether? I am confused.

1 Senator Long. We just voted up or down on this
2 particular proposal. We agreed first to substitute your
3 proposal for the other proposal, and we voted on your
4 proposal.

5 Senator Packwood. George, what was it you asked?

6 The Chairman. I think he's all right. He voted
7 No. Does that take care of that?

8 Senator Mitchell. Indeed it does, Mr. Chairman.
9 Thank you.

10 The Chairman. All right. Are there other
11 amendments to the Medicaid/Medicare package?

12 Senator Durenberger. Yes, Mr. Chairman.

13 This is the issue of ineffective drugs that we
14 thought we had dealt with some time ago, whether or not
15 ineffective drugs should be reimbursed out of Part B of
16 Medicare.

17 We passed it out of here before we had it on the
18 Omnibus Reconciliation Bill last year, and it was added
19 back in, or the prohibition against our prohibiting the
20 payment from Part B for so-called ineffective drugs was
21 put back in on the House side on the Continuing Resolution.

22 This is an ongoing battle. The Senate's position
23 is always "we are not going to pay for those so-called
24 ineffective drugs."

25 The Chairman. Is there any objection?

1 Senator Baucus. I think it is an excellent
2 amendment, Mr. Chairman. The Senator from Minnesota and I
3 have been pushing for this for some time.

4 The Chairman. All right. Without objection,
5 agreed to.

6 All right. Any other amendments?

7 Senator Bradley. Mr. Chairman, first of all,
8 how have we resolved the issue of the 4-percent cap?

9 Senator Durenberger. We have agreed on 3 percent,
10 but we will work with you to find a satisfactory effort,
11 a legitimate effort of scale.

12 The Chairman. It's the same. I indicated in
13 your absence that both you and Senator Boren had a question
14 on the error rate. We are going to try to resolve it to
15 your satisfaction. We all want the same thing to happen,
16 but we don't want to penalize somebody if it doesn't
17 happen, if they are really working at it.

18 Senator Bradley. Then the second question I had
19 was on the expansion of 223 limits on the sheet that was
20 passed out this morning, where you moved to take care of
21 the rural hospitals.

22 We had discussed with staff the problems of urban
23 hospitals as well, and you have language in this document
24 which, frankly, I would like to have you explain a little
25 bit, in a little bit greater depth.

1 You say, "The new limits would call for
2 elimination of some exceptions; for example, exceptions
3 made unnecessary by the case mix adjustment, while other
4 exceptions may be appropriate. For example, the proposal
5 would direct the Secretary to determine the extent to which
6 the reimbursement limit for public hospitals should be
7 adjusted to take account of the extra cost that they
8 necessarily incur in treating low-income patients." What
9 does that mean?

10 Ms. Burke. Senator, we believe, in having spoken
11 with the public hospitals, that there are costs that result
12 because low-income patients tend to suffer from multiple
13 diagnoses in many cases because of their nutrition status,
14 who are often at more risk than individuals who are
15 middle income or upper income, that they sometimes require
16 more care because of that, that institutions also incur
17 costs with respect to social welfare counseling because
18 these individuals sometimes are not able to find locations
19 to go to to recuperate, that should be considered when
20 looking at 223 limits, similar to what we do with respect
21 to teaching institutions in adjusting for their education
22 costs.

23 Senator Bradley. Do we want to be any more
24 specific than simply leaving the language as general as
25 this? In other words, specifying some of the things that

1 you have mentioned? I assume you are referring as well
2 to some of the problems when you do cut Medicaid and you
3 can't cost-shift with the low-income population. You end
4 up in some cases providing no or much-reduced services to
5 to them.

6 Ms. Burke. We would certainly consider language
7 that is more specific. After talking with the public
8 hospitals we are hesitant to put it into statute as much as
9 to work with the Secretary in establishing an adjustment
10 which we don't think will be done in a short time. I mean,
11 we recognize that it may take some time to figure out
12 what exactly should be adjusted for; but we could certainly
13 put in more directive language in that sense.

14 In the past we have hesitated to put an
15 overwhelming amount of specificity into the statute. We
16 have tended to work with the Department and the regulations
17 with respect to application of exceptions and exemptions.

18 Senator Bradley. What the language is is fairly
19 important to me, Mr. Chairman. Is there any way we could
20 reserve a decision on that?

21 The Chairman. Yes. In other words, we hope today
22 to adopt the spending reduction side, and we hope it's
23 final, but if there is some exception you want to make
24 in that area, we are going to be here next week. We don't
25 want to go back and reopen everything, but I think that's

1 a legitimate concern that should be addressed.

2 Senator Bradley. All right.

3 I appreciate that. You asked if there were
4 any other questions on the Medicare package. I would like
5 to have a vote on the co-payment on Medicaid, and also on
6 the allowable physician fees into 1983 and permit only a
7 5 percent increase in 1984.

8 The Chairman. Which co-payment on Medicaid do
9 you mean?

10 Senator Bradley. The one that that says "allow
11 states who require Medicaid recipients to make nominal
12 co-payments in situations." Again, that's precipitated
13 by the refusal to put a specific limit in. And so I
14 would like to get a recorded vote No, but at a later date
15 we can achieve what you wanted, which is to say that a
16 nominal co-payment is defined as a dollar or a dollar and
17 a half. Maybe that wouldn't be necessary, but at this
18 stage, if we are moving ahead, I would like a vote on that.
19 It's number 1 under Medicaid.

20 The Chairman. What is the other?

21 Senator Bradley. The other would be -- I don't
22 know how to identify it because I have two numbers,
23 because what was given to staff yesterday is different than
24 what was provided today -- it is number 7 in what was
25 provided today.

1 The Chairman. Limitation on Economic Index of
2 Physicians Fees?

3 Senator Bradley. Yes, I think that's the one.
4 I think this is the one that would result in the greatest
5 potential increase in Medigap premiums. There are two
6 that are similar.

7 Ms. Burke. Item number 7, the Limitation on the
8 Economic Index for Physician Fees.

9 The Chairman. I understand the point Senator
10 Bradley is making, but it doesn't reduce physicians --

11 Ms. Burke. It holds down the rate of increase,
12 Senator.

13 The Chairman. It holds it down.

14 Let's vote on number 7, then.

15 Senator Chafee. I want to speak briefly to the
16 Medicaid co-payment, Mr. Chairman, when we get to that.

17 The Chairman. All right.

18 The Clerk will call the roll on number 7.

19 Senator Bradley. Just a second, Mr. Chairman.
20 Let me figure out if that is the specific one.

21 The Chairman. Well, we will vote on any of them,
22 if you have others.

23 Senator Chafee. While he is looking at that,
24 Mr. Chairman, could I address the Medicare co-payment? It
25 seems to me, Mr. Chairman, as I get the figures that

1 Sheila gave us, we have come in above here what we are
2 required to, and the Medicaid co-payment we have now
3 hinged around with so many, and justifiable I think,
4 exemptions, that I don't see for the modest sums involved
5 there, Mr. Chairman, why we just don't drop that.

6 Ms. Burke. Senator, if I might interject, we are
7 currently below our targets in Fiscal Year 1983 as a result
8 of the Packwood Amendment. Our savings estimate at the
9 moment is 3.7 in 1983.

10 The Chairman. We are only there because of PIP.

11 Could we go ahead? Have you identified that
12 one, Bill?

13 Senator Bradley. Let's just do the Medicaid
14 co-payment.

15 The Chairman. Do you have a different one?

16 Senator Baucus. Well, I've got another one
17 waiting. But it is up to you when you want to go.

18 The Chairman. Do you want to vote on a specific
19 provision?

20 Senator Baucus. Well, yes. There are several
21 here which I think we should delete from the list.

22 The Chairman. If you move to delete, then we
23 will vote on them.

24 Senator Baucus. All right.

25 One that I think is particularly objectionable

1 is number 6 on the list, the one that indexed the Part B
2 deductible to the CPI. You know the problems that we faced
3 with Social Security indexed to CPI, and I think this is
4 going to come back and haunt us very severely in the future
5 if we index the Part B deductible to CPI.

6 The Chairman. Well, I have indicated for the
7 record that if in fact there is a change in the Social
8 Security, how that is indexed, that we will address the
9 same thing here. Now, we could state that, that we will
10 in effect address that or even adopt whatever may be
11 adopted as a result of the Social Security Advisory
12 Commission's work.

13 Senator Baucus. Mr. Chairman, I think we should
14 do what we did in the past before we indexed to the CPI;
15 that is, increase the benefits under Social Security at
16 periodic intervals instead of indexing it automatically to
17 the CPI. I think we made a mistake, back whatever year it
18 was, when we indexed Social Security benefits automatically
19 100 percent to CPI. I think we should continue in the
20 future with Part B deductible as we have done in the past;
21 that is, at periodic times increase the deductible or
22 change the deductible rather than automatically tying it
23 in 100 percent to the CPI. We know the problems we faced
24 with Social Security; I'm afraid we are going to face the
25 same kinds of problems here.

1 The Chairman. If we indexed, Sheila, what would
2 it be?

3 Ms. Burke. The deductible next year would be
4 \$85 instead of \$75; in the following year, \$89; and in
5 the following year, \$93.

6 The Chairman. Would you just rather vote on
7 those numbers?

8 Senator Baucus. That is correct.

9 Ms. Burke. That is the current projection.

10 Senator Baucus. When we indexed Social Security
11 benefits to the Consumer Price Index nobody in his
12 wildest dreams thought we would be facing inflation to 12,
13 13, 14 percent. These numbers that were just given are
14 based upon very rosy -- to use this trite expression --
15 scenarios.

16 Senator Durenberger. How about 85, 90, 95?

17 Senator Baucus. I think it is not wise to index
18 these to inflation.

19 Senator Durenberger. How about 85, 90, and 95?
20 Would that be a nice predictable 3-year scenario?

21 The Chairman. Do you have an alternative?

22 Senator Baucus. No. I think we should not do it
23 at this point. Another way to look at it is not to just
24 pull a figure out of the air, as this is.

25 The Chairman. Well, let's just vote on it. My

1 view is that we probably don't want to do any of this;
2 but the program is out of hand, and it's maybe not on its
3 deathbed, but it's close if we don't start making some
4 changes. I think if we have a difference we ought to try
5 to resolve it; or, if not, slow it down a bit.

6 Shall we vote on that one first, Max?

7 Senator Baucus. I think we should vote on whether
8 or not to index the Part B deductible to the CPI.

9 The Chairman. All right. The Clerk will call
10 the roll on item 6.

11 Mr. Lighthizer. This is a motion to strike?

12 The Chairman. That is correct.

13 The Clerk. Mr. Packwood?

14 Senator Packwood. No.

15 The Clerk. Mr. Roth?

16 (No response)

17 The Clerk. Mr. Danforth?

18 The Chairman. He's voting to strike. Up or
19 down?

20 Senator Danforth. Down.

21 The Clerk. Mr. Chafee?

22 Senator Chafee. Aye.

23 The Clerk. Mr. Heinz?

24 (No response)

25 The Clerk. Mr. Wallop?

1 The Chairman. No.
2 The Clerk. Mr. Durenberger?
3 Senator Durenberger. No.
4 The Clerk. Mr. Armstrong?
5 The Chairman. No.
6 The Clerk. Mr. Symms?
7 The Chairman. No.
8 The Clerk. Mr. Grassley?
9 Senator Grassley. No.
10 The Clerk. Mr. Long?
11 Senator Long. No.
12 The Clerk. Mr. Byrd?
13 Senator Byrd. No.
14 The Clerk. Mr. Bentsen?
15 Senator Bentsen. No.
16 The Clerk. Mr. Matsunaga?
17 (No response)
18 The Clerk. Mr. Moynihan?
19 Senator Moynihan. No.
20 The Clerk. Mr. Baucus?
21 Senator Baucus. Aye.
22 The Clerk. Mr. Boren?
23 Senator Boren. No.
24 The Clerk. Mr. Bradley?
25 Senator Bradley. Aye.

1 The Clerk. Mr. Mitchell?

2 Senator Mitchell. Aye.

3 The Clerk. Mr. Chairman?

4 The Chairman. No.

5 (Pause)

6 The Chairman. On this vote the Ayes are four
7 and the Nays are 14. The motion to strike is not agreed to.

8 Senator Long. Mr. Chairman, I do think there are
9 a few items here that are not going to pick up much money
10 that ought to be eliminated in favor of some larger ticket
11 items that will pick up money. And I think one of those
12 is the one that Mr. Bradley was talking about.

13 I understate this nominal co-payment. I know
14 what that means in Louisiana. You got down to Charity
15 Hospital and you've got a thousand people down there
16 trying to get some help -- mothers with babies in their
17 arms, and all that sort of thing. And so you are going to
18 tag them \$5 and a dollar, and that type thing, and they
19 are not accustomed to that. They have been used to thinking
20 that they can go down to that Charity Hospital and get some
21 help and didn't have to pay for it.

22 Frankly, that is one point that Senator Moynihan
23 and I are not going to argue about, about the people being
24 sick. There are those sick babies, and those people --
25 the kids are sick and the people are sick, and they have

1 to wait a long time to get any help at all. By the time
2 they are through, there is somebody going to collect a fee
3 that they haven't been collecting down there for 30 years.

4 Voice. Fifty years ago.

5 Senator Long. Fifty years ago; that's right.
6 So if you permit them to come in there at all, you have
7 got to take care of them, and you don't charge them for it.

8 Incidentally, the name of the place is "Charity
9 Hospital," not because it is supposed to be "charity," but
10 because it is named after the Sisters of Charity, which is
11 a religious organization of some very dedicated people who
12 have taken a vow of poverty to serve their fellow human
13 beings.

14 Now, for \$45 million a year, to go set the stage
15 for every state in the union to be charging these people
16 something, as I say, in Louisiana they have been getting
17 for free for fifty years, I think it could be a problem.

18 In terms of money that we have got to save, we
19 can find that money. And also, for these small items, we
20 are going to cause a lot of inconvenience and have a great
21 number of people complain about it. I think it would be
22 wiser to pick that money up on a big item somewhere, and
23 I would be willing to vote for a big item somewhere to pick
24 it up. And I can suggest some myself.

25 But I think that these small items are going to

1 have a lot of criticism and complaint would be better
2 handled by just picking it up on a large item somewhere.

3 The Chairman. Could I just say, then the
4 Administration wanted to be heard on this, I think some of
5 the items are small, but I think we have been very
6 sensitive -- at least, we have tried to be very sensitive --
7 to concerns of everybody that might be involved. And we
8 have done a lot of work through the staff through the
9 excellent work of Sheila Burke and others in contacting
10 the groups that had an interest.

11 As I understand it, I have talked to the
12 representatives of interested Medicaid, they feel very good
13 about our package on Medicaid. They don't have that much
14 concern about the package.

15 Now this provision is one that the governors are
16 really urging that we adopt to give them some little -- I
17 don't say "leverage" in the wrong sense, but just some
18 way to try to at least begin to slow, very slowly, the
19 growth of this program.

20 I want to yield to Mr. Daum and then Senator
21 Durenberger, but certainly it is \$45-50 million. There
22 are other things. We looked at the minimum match, which
23 I am certain the Senator from New Jersey doesn't want us
24 to get into. There are a lot of ways we can save more
25 money. We try to be very selective.

1 As I have said before, most of this is coming
2 from providers. They are not the happiest group in town.
3 But we believe that it is a balanced package.

4 Now, does the Administration want to be heard
5 briefly on this?

6 Mr. Donnelly. Yes.

7 Mr. Chairman, your analysis of the governors and
8 the states' request for this is exactly correct. We are
9 being pressed by a number of states to allow them to have
10 this particular feature.

11 I think two things need to be made clear on this:
12 "Nominal" is really nominal, and we really are talking in
13 the dollar, dollar and a half kind of category.

14 The final point is that the Secretary has
15 steadfastly said in any instance on this, "No one would be
16 refused service if they were unable to pay that dollar or
17 dollar and a half."

18 Now, our original proposal was mandatory. We
19 are very comfortable with an allowable proposal, simply
20 because the states really feel this is necessary to have.
21 My sense is that the savings that CBO allowed you are
22 really quite a bit smaller, Senator, than the actual
23 experience will be because of the number of states that
24 want to participate.

25 The Chairman. I think there is one area you

1 touched on that might make a difference, if we can ever
2 define what we mean by "nominal." That is a concern
3 expressed by a Senator on both sides. And I assume it
4 is going to be nominal.

5 We have added language or will add language to
6 the report. We have made certain exceptions for those
7 institutionalized and women and children.

8 Ms. Burke. That is correct, Senator. In fact,
9 Senator Bradley, the information that we have been given is
10 that the current regulatory definition of "nominal" is
11 50 cents to three dollars.

12 Senator Bradley. To three dollars?

13 Ms. Burke. That is correct, depending on the
14 cost of service; and we would of course add to that a
15 reflection of the income of the individual, also.

16 Senator Bradley. Does it exempt elderly in
17 nursing homes?

18 Ms. Burke. Yes, sir.

19 The Chairman. It gives the governor just a little
20 of --

21 Senator Durenberger. I would just add to that
22 that I have been wrestling with this issue now in the New
23 Federalism for six months, and state and local government
24 are the financial backup in the charity cases all of the
25 time, whether it is general assistance or charity. And

1 it is they who believe they can do a better job with the
2 Medicaid program if we give them the right tools. And
3 this is one of those tools they would like to use.

4 Senator Bentsen. Well, I must state that years
5 ago I was an administrative head of a county where we had
6 such hospitals in force under our administration. I find
7 it very difficult to get into the position of finally
8 putting a charge on.

9 I have been told by my state that they would not
10 do that; so I am somewhat sympathetic to what Senator Long
11 has stated.

12 The Chairman. As I understand it, you would
13 like to move the deleted, even with the changes made?

14 Senator Bradley. Well, I would like to move to
15 delete it as long as the nominal number is not defined
16 more clearly. So, let's go ahead and vote, and if at a
17 later time we change it, so be it.

18 The Chairman. The motion is to delete number
19 1 under Medicaid.

20 The Clerk. Mr. Packwood?

21 Senator Packwood. No.

22 The Clerk. Mr. Roth?

23 The Chairman. No.

24 The Clerk. Mr. Danforth?

25 Senator Danforth. No.

1 The Clerk. Mr. Chafee?
2 Senator Chafee. No.
3 The Clerk. Mr. Heinz?
4 (No response)
5 The Clerk. Mr. Wallop?
6 The Chairman. No.
7 The Clerk. Mr. Durenberger?
8 Senator Durenberger. No.
9 The Clerk. Mr. Armstrong?
10 Senator Armstrong. No.
11 The Clerk. Mr. Symms?
12 The Chairman. No.
13 The Clerk. Mr. Grassley?
14 Senator Grassley. No.
15 The Clerk. Mr. Long?
16 Senator Long. Aye.
17 The Clerk. Mr. Byrd?
18 Senator Byrd. No.
19 The Clerk. Mr. Bentsen?
20 Senator Bentsen. Aye.
21 The Clerk. Mr. Matsunaga?
22 (No response)
23 The Clerk. Mr. Moynihan?
24 Senator Moynihan. Aye.
25 The Clerk. Mr. Baucus?

1 Senator Baucus. Aye.

2 The Clerk. Mr. Boren?

3 Senator Boren. No.

4 The Clerk. Mr. Bradley?

5 Senator Bradley. Aye.

6 The Clerk. Mr. Mitchell?

7 Senator Mitchell. Aye.

8 The Clerk. Mr. Chairman?

9 The Chairman. No.

10 (Pause)

11 The Chairman. Now, are there other votes on any
12 provision requested?

13 Senator Moynihan. Mr. Chairman, there are a
14 small number of institutions involved.

15 The Chairman. Well, let me announce the vote.

16 The Yeas are six; the Nays are 12. The motion
17 to delete is not agreed to.

18 Senator Moynihan. I said there are a small
19 number of institutions involved, but there are those who
20 love them. On the PIP change, did I hear Ms. Burke agree
21 that we would say that a hospital that could not, because
22 of its finances, borrow money, that provisions would be
23 made for that?

24 Ms. Burke. We can certainly ask the Department
25 to examine whether or not that would substantially alter

1 the savings as a result of that kind of a change.

2 Senator Moynihan. Would you do it, and let us
3 know?

4 Ms. Burke. Yes, sir.

5 Senator Moynihan. I thank you.

6 The Chairman. We will do that, Senator Moynihan.

7 Senator Mitchell. Mr. Chairman, is it your
8 intention now to have a vote on the entire package that
9 we have discussed? Medicare and Medicaid?

10 The Chairman. Yes.

11 Senator Mitchell. I would just like to make one
12 brief comment, Mr. Chairman. It regards the context in
13 which we cast the vote.

14 We are directed to make reductions in some areas
15 and then increases in the other, and we operate
16 independently as though they were separate matters. Of
17 course, they are not. All of the terms of the budget is
18 based upon the bottom line, which is what the total
19 relationship is between revenues and expenditures.

20 I intend to vote against the proposal because
21 I think that we ought not to be making these reductions.
22 At the same time there are many other areas in which we
23 have taken steps which I think would more than make up the
24 difference. For example, the three major provisions of
25 the reduction in the Windfall Profits Tax that we voted on

1 last year would produce \$1.7 billion in loss of revenues
2 in 1983, \$2.2 billion in 1984, and \$2.8 billion in 1985.

3 Were we to strike all of the provisions on
4 Medicaid and those provisions in Medicare which impact
5 directly on individuals, we would have substantially less
6 than that. In other words, there would be a net balance
7 in the government's favor, in terms of revenues as against
8 expenditures.

9 I understand that the context in which you
10 operate, that's a separate matter; but I just point out
11 that there are many of us who would oppose this kind of
12 production; as what we are doing in effect, if you relate
13 the two actions, is transferring the burden from one group
14 who have received certain benefits to another group who
15 are now being denied certain benefits. And I feel that
16 it is the former group that is best able to bear the
17 benefits, and the latter group is the least able to bear
18 them. I think that's wrong.

19 Senator Bradley. Would the Senator yield?

20 Senator Mitchell. Yes.

21 Senator Bradley. As I understand it, though,
22 Mr. Chairman, this still remains open. So if indeed we
23 get to the tax portion, someone could move to reinstate
24 the Medicare portion and offset that with a tax increase
25 of some sort. Isn't that correct?

1 The Chairman. Well, this is a different
2 category of the budget. I mean, this is one function.
3 Revenues is where we are asked, and in fact mandated,
4 to \$20.9 billion. But this is in a different functioning.

5 Senator Bradley. But if you recall when the
6 Senate Finance Committee reported out its report to the
7 Budget Committee, we reserved the right to come out
8 and to balance with any combination of spending cuts or
9 tax increases. So a motion next week to provide such an
10 offset, maybe not that tax but another tax, as I understand
11 it would be in order.

12 Senator Long. But, as a practical matter,
13 you went off with one of those double-barrelled proposals.
14 It is hard to ask this because I think I know the answer,
15 and as a matter of fact it's not only for a double
16 barrelled proposal; anyone has a right to insist on a
17 debate and insist it be quoted item for item.

18 The Chairman. Plus, we have a reconciliation
19 instruction, and that wouldn't meet our reconciliation
20 instruction. We could end up with more revenue increases
21 of \$30 billion and no cuts in Medicare or Medicaid. I
22 don't think that is the instruction we have from the
23 Senate, which passed the budget yesterday.

24 But again, we understand there may be one or
25 two amendments offered next week.

1 Senator Moynihan. Mr. Chairman, could I ask you
2 and ask the staff perhaps, on that point, are we bound
3 by the crosswalk calculations of the Budget Committee
4 Staff? I was not aware of that.

5 Mr. Lighthizer. You are not bound by the
6 functional crosswalk, but you are bound by the distinction
7 between revenues and spending.

8 Senator Moynihan. Right, right.

9 Senator Packwood. So we are bound by the
10 distinction between revenues and savings; but I could
11 swear we had a debate on the floor where we talked about
12 just the total amount of money that we had to come up with
13 in savings or taxes, and as long as we met the total we
14 were all right.

15 Mr. Lighthizer. The reconciliation instruction
16 that the Senate passed yesterday provides for a certain
17 amount of tax increases and a separate amount of spending
18 cuts. And in order to meet reconciliation, we are
19 instructed to meet it in both categories, but not between
20 functions within spending.

21 Senator Bradley. Unless the committee decided
22 to do otherwise and then reported it to the floor and let
23 the Senate decide if indeed they wanted to make an
24 exception.

25 The Chairman. Well, we will be glad to consider

1 that.

2 Now, would you like to vote on Medicare
3 separate from Medicaid?

4 Senator Baucus. Mr. Chairman, I have another
5 motion to strike.

6 The Chairman. All right.

7 Senator Baucus. It is number 10 on the list.
8 That's the one that holds the Part D premium constant as
9 a percentage of program cost; that is, 25 percent.

10 This is another provision which I think directly
11 hits beneficiaries. My general concern with this package
12 is that, Yes, we have to cut costs; but, as I have often
13 stated, as we all know --

14 The Chairman. Do you have an alternative on
15 how to cut the costs?

16 Senator Baucus. Yes. I think we should hold
17 hearings on how we cut health care costs instead of
18 taking the Administration's list and basically enacting
19 the Administration's list to cut savings -- cut payments
20 and outlays rather than addressing the heart of the matter
21 which is health care costs. Now, that's what we should
22 be doing here.

23 The Chairman. That's number 10?

24 Senator Baucus. It is number 10.

25 As we all know, these premiums are going to be

1 felt directly by Social Security beneficiaries. It is
2 going to come right out of their checks.

3 The Chairman. This originally was 50-50. Now
4 it's down below 25 percent. We are just trying to keep
5 it at 25 percent. The motion is to strike 10?

6 Senator Baucus. The motion is to strike 10.

7 The Clerk. Mr. Packwood?

8 Senator Packwood. No.

9 The Clerk. Mr. Roth?

10 The Chairman. No.

11 The Clerk. Mr. Danforth?

12 Senator Danforth. No.

13 The Clerk. Mr. Chafee?

14 Senator Chafee. No.

15 The Clerk. Mr. Heinz?

16 The Chairman. No.

17 The Clerk. Mr. Wallop?

18 The Chairman. No.

19 The Clerk. Mr. Durenberger?

20 Senator Durenberger. No.

21 The Clerk. Mr. Armstrong?

22 Senator Armstrong. No.

23 The Clerk. Mr. Symms?

24 The Chairman. No.

25 The Clerk. Mr. Grassley?

1 Senator Grassley. No.

2 The Clerk. Mr. Long?

3 Senator Long. No.

4 The Clerk. Mr. Byrd?

5 Senator Byrd. No.

6 The Clerk. Mr. Bentsen?

7 Senator Bentsen. No.

8 The Clerk. Mr. Matsunaga?

9 (No response)

10 The Clerk. Mr. Moynihan?

11 Senator Moynihan. Aye.

12 The Clerk. Mr. Baucus?

13 Senator Baucus. Aye.

14 The Clerk. Mr. Boren?

15 Senator Boren. No.

16 The Clerk. Mr. Bradley?

17 Senator Bradley. Aye.

18 The Clerk. Mr. Mitchell?

19 Senator Mitchell. Aye.

20 The Clerk. Mr. Chairman?

21 The Chairman. No.

22 (Pause)

23 The Chairman. The Yeas are four; the Nays are

24 15, and the motion to strike is not agreed to.

25 Senator Byrd. Mr. Chairman, before you put the

1 question on the package, could we get the revised total of
2 the dollar?

3 Ms. Burke. Yes, sir. In Fiscal Year 1983 the
4 revised savings are 3.770. In Fiscal Year 1984, 5.188;
5 and in Fiscal Year 1985, 6.271, for a three-year total
6 of 15.229.

7 Senator Danforth. What was our target?

8 Ms. Burke. Our target in over three years was:
9 in Medicare/Medicaid, 13.743 for our reconciled amount.

10 Senator Baucus. So we are over our target?

11 Ms. Burke. Yes, sir.

12 Mr. Lighthizer. Well, the first year it was
13 3.836, so we are about \$60 million short.

14 Ms. Burke. Short in our first year.

15 Senator Baucus. Overall we are over by a couple
16 of billion dollars. More than that, if our total target
17 for Medicare and Medicaid -- is that the figure you gave
18 us, 15 for Medicare/Medicaid?

19 Ms. Burke. It was 15.2, Senator.

20 Senator Baucus. And that's for both Medicare
21 and Medicaid?

22 Ms. Burke. Yes, sir.

23 Senator Baucus. And our target was 13 point what?

24 Ms. Burke. It was 13.7.

25 Senator Baucus. Thank you.

1 The Chairman. Let's call the roll on the
2 Medicare/Medicaid package.

3 Senator Baucus. Mr. Chairman, I have one more
4 amendment, if you can indulge me. That is, I suggest we
5 sunset the two Part B provisions; that is, number 6 and
6 number 10 on the list.

7 We are projecting now over three years to 1985.
8 I suggest we experiment with these provisions, the two
9 Part Bs, which I think are wrong. But let's continue them
10 for three years, and let's sunset them after three years.

11 I move that those two provisions expire at the
12 end of three years.

13 The Chairman. What would you do?

14 Senator Baucus. I would sunset number 6 and
15 number 10 on the Medicare list after three years.

16 Ms. Burke. I'm sorry, Senator. Is it two
17 years or three?

18 Senator Baucus. Well, let's say three years.

19 The Chairman. The Clerk will call the roll.

20 The Clerk. Mr. Packwood?

21 Senator Packwood. No.

22 The Clerk. Mr. Roth?

23 The Chairman. No.

24 The Clerk. Mr. Danforth?

25 Senator Danforth. No.

1 The Clerk. Mr. Chafee?
2 (No response)
3 The Clerk. Mr. Heinz?
4 The Chairman. No.
5 The Clerk. Mr. Wallop?
6 The Chairman. No.
7 The Clerk. Mr. Durenberger?
8 Senator Durenberger. No.
9 The Clerk. Mr. Armstrong?
10 Senator Armstrong. No.
11 The Clerk. Mr. Symms?
12 The Chairman. No.
13 The Clerk. Mr. Grassley?
14 The Chairman. No.
15 The Clerk. Mr. Long?
16 Senator Long. No.
17 The Clerk. Mr. Byrd?
18 Senator Byrd. No.
19 The Clerk. Mr. Bentsen?
20 (No response)
21 The Clerk. Mr. Matsunaga?
22 (No response)
23 The Clerk. Mr. Moynihan?
24 (No response)
25 The Clerk. Mr. Baucus?

1 Senator Baucus. Aye.
2 The Clerk. Mr. Boren?
3 Senator Boren. Aye.
4 The Clerk. Mr. Bradley?
5 Senator Bradley. Aye.
6 The Clerk. Mr. Mitchell?
7 Senator Mitchell. Aye.
8 The Clerk. Mr. Chairman?
9 The Chairman. No.
10 (Pause)
11 The Chairman. Bob?
12 Senator Chafee. Aye, on the sunset.
13 The Chairman. On this vote the Yeas are five,
14 and the Nays are 15. The amendment is not agreed to.
15 Now we vote on the Medicare/Medicaid package.
16 The Clerk will call the roll.
17 The Clerk. Mr. Packwood?
18 Senator Packwood. Aye.
19 The Clerk. Mr. Roth?
20 The Chairman. Aye.
21 The Clerk. Mr. Danforth?
22 Senator Danforth. Aye.
23 The Clerk. Mr. Chafee?
24 Senator Chafee. No.
25 The Clerk. Mr. Heinz?

1 The Chairman. Aye.
2 The Clerk. Mr. Wallop?
3 The Chairman. Aye.
4 The Clerk. Mr. Durenberger?
5 Senator Durenberger. Aye.
6 The Clerk. Mr. Armstrong?
7 Senator Armstrong. Aye.
8 The Clerk. Mr. Symms?
9 The Chairman. Aye.
10 The Clerk. Mr. Grassley?
11 The Chairman. Aye.
12 The Clerk. Mr. Long?
13 Senator Long. Aye.
14 The Clerk. Mr. Byrd?
15 Senator Byrd. Aye.
16 The Clerk. Mr. Bentsen?
17 Senator Bentsen. No.
18 The Clerk. Mr. Matsunaga?
19 (No response)
20 The Clerk. Mr. Moynihan?
21 (No response)
22 The Clerk. Mr. Baucus?
23 Senator Baucus. No.
24 The Clerk. Mr. Boren?
25 Senator Boren. Aye.

1 The Clerk. Mr. Bradley?

2 Senator Bradley. No.

3 The Clerk. Mr. Mitchell?

4 Senator Mitchell. Yes.

5 The Clerk. Mr. Chairman?

6 The Chairman. Aye.

7 The Yeas are -- ?

8 The Clerk. Thirteen.

9 The Chairman. The Nays are -- ?

10 The Clerk. Five.

11 The Chairman. Who is not recorded then?

12 The Clerk. Mr. Matsunaga and Mr. Moynihan.

13 Senator Long. Mr. Moynihan wanted to be recorded

14 No.

15 The Chairman. The Yeas are 13; the Nays are 6.

16 Senator Matsunaga can be recorded.

17 So we have agreed on the Medicare/Medicaid
18 package with the caveat that obviously we are still here
19 next week. We are trying to work out some of the concerns
20 that some members have; and if we can't do it we will go
21 back and vote on those provisions.

22 Senator Long. I have a suggestion as to how we
23 might stay within our spending totals on this, Mr. Chairman.
24 I just want to see if what I thought is confirmed.

25 Am I correct that these spendings on Medicare, on

1 Medicaid, are open-ended items? Isn't that open-ended --
2 that it is a matching program but open-ended?

3 Ms. Burke. Yes, sir, that is correct.

4 There is, however, a reduction that was
5 implemented last year. It remains open-ended, but we are
6 reducing the states by a fixed amount from what we would
7 pay for the next two years. But it remains open-ended.
8 There is no cap on the Medicaid program.

9 Senator Long. There is no cap?

10 Ms. Burke. Yes, sir.

11 Senator Long. But not for this next year there
12 is no cap?

13 Ms. Burke. No, sir.

14 Senator Long. All right.

15 Now, is the same thing true for AFDC? Is it
16 open-ended?

17 Ms. Burke. It is open-ended.

18 Senator Long. Well, I haven't heard it suggested
19 here, I don't believe, but what I was suggesting is one
20 way we could stay within our budget limits is to simply
21 on a state-by-state basis fix a figure, just put a lid on
22 the amount we are willing to spend state-by-state. And
23 then having done that, we could make an across-the-board
24 cut if we need to, one percent or two percent, whatever
25 it takes, and come right out on the figure we want to be on,

1 if we want to do that. Couldn't we do that?

2 Ms. Burke. Yes, sir, that could be done. It
3 would be basically removing the matching nature of the
4 Medicaid program and fixing a certain amount, and giving
5 that amount to the states, and no more. That could be
6 done.

7 Senator Long. Well, my thought is, just
8 basically match and say, "Well, we match up to this point."
9 Beyond that point you don't match. You match based on
10 what you estimate they are going to do.

11 Now, as I understand it, aren't those figures
12 based on what they say they are going to do?

13 Ms. Burke. Yes, sir.

14 Senator Long. Well, that's what my thought is.
15 Based on that, we could arrive at whatever figure we think
16 we can afford for this program.

17 Now, there is a whole lot of latitude in here.
18 We just got through voting on a lot of optional things
19 that they can do or not do, but if we give them a certain
20 amount of money that means that they would come out not
21 above the figure that we have fixed.

22 I would just like the Administration to think
23 about that, because if you think that that pad makes
24 sense, it occurs to me that that's how we can come out on
25 the figure we want to be on.

1 Mr. Donnelly. Well, Senator, as you may recall,
2 we proposed a cap last year that didn't receive a wild
3 degree of enthusiasm with respect to either chamber, as
4 a matter of fact, although this committee did settle on
5 a cap that we found to be acceptable. It was just very
6 difficult to deal with in conference.

7 The concept is very clear that you articulate,
8 and it certainly is one of the options that we look at
9 continually.

10 Senator Long. Well, would you still support it
11 if said let's just have a cap and hold it to a certain
12 figure?

13 Mr. Donnelly. Well, Senator, that is not in our
14 package of proposals at this time because of our sense that
15 the Congress wanted to look at a more artful array of
16 trying to deal with specific spending items. And that's
17 the way in which we entered the discussions with the
18 committees and with this committee.

19 If we were to reconsider that, it would have to
20 be in light of the actions that you have now taken, and
21 I don't know the answer to that question.

22 Senator Long. Well, the reason I asked the
23 question, at least one reason I asked the question, is
24 we came up short on this. Or are we?

25 The Chairman. No, I think we are all right now.

1 Senator Long. Hold it. Are we short on the
2 estimate here?

3 Ms. Burke. We are slightly below in the first
4 year.

5 Mr. Donnelly. Slightly below in the first year,
6 I believe.

7 Senator Long. Well, all right. So we are
8 slightly below in the first year. We have got the 5th
9 included, haven't we?

10 Ms. Burke. Yes, sir.

11 Senator Long. Which would mean that we have got
12 about \$800 million worth of froth in there.

13 (Laughter)

14 Senator Long. I thank you. I would hold for the
15 moment.

16 The Chairman. As I recall, I think the reason
17 for all the opposition where all the governors came to
18 town -- Democrats and Republicans -- they really went after
19 us on the cap.

20 What we would like to do is come back about
21 1:30. If we come back at 1:30, I think we can probably
22 complete the Income Security Programs hopefully within an
23 hour or an hour and a half. We would like to finish this,
24 unless you would rather meet tomorrow morning. We would
25 like to finish it this afternoon. I think we can.

1 So come back at 1:30. Thank you.

2 (Whereupon, at 12:29 p.m., the meeting was
3 recessed.)

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A F T E R N O O N S E S S I O N

1
2 The Chairman. We'll turn now to the income security
3 programs. I think as I understand Senator Moynihan would
4 like to make a brief opening statement.

5 Senator Moynihan. I would, Mr. Chairman, and I would
6 appreciate the chance, and it will be very brief, but we
7 are turning now to the AFDC program, in particular, and SSI
8 as well, and just to put what we are doing in the perspective
9 that I don't think we always have, this or other considera-
10 tions of AFDC, to say that last year I had some time to
11 organize some research on the incidence of AFDC receipt
12 in the American population, and we worked a, in effect, an
13 equation which historically predicted the portion of children
14 born in a given year who would receive AFDC payment before
15 their age 18.

16 And the numbers are quite startling, and if the
17 chairman would allow me, I would like to put the paper
18 in the record. But just to summarize the material, it would
19 take no time at all.

20 In 1940, seven percent of the children born in that
21 year would receive AFDC payment for their age 18 which is
22 to say they would be dependent children. This grew in
23 1950 to 17 percent. 22 percent in 1960 to 26 percent in
24 1965; 31 percent in 1975.

25 Senator Long. Did you say '26 in '55?

1 Senator Moynihan. Yes, sir. In 1965 26 percent.
2
3 1970, 31 percent. 1975, 33 percent, and 1978 dropped to
4 32. Now, we don't want to suggest that these are iron
5 clad. You know these are not laboratory measurements,
6 but they do give a trend, and they do give a sense of
7 proportion, and what they demonstrate is that in round terms
8 by their 18th birthday, one-third of all children now
9 being born are likely to live in a household receiving AFDC
10 payments which is a very startling number.

11 And it suggests very simply that apart from public
12 education, the AFDC program has the largest impact on children
13 of any public program, state, local or federal. We are
14 not talking about a minority of our children, but we are
15 talking -- we're not talking about a small group. We are
16 talking about a third.

17 I don't claim anything more for the numbers than the
18 fact that they suggested this was not a small group. This
19 was surprisingly large group, and what we do, we are doing
20 to -- for -- we are doing for a great many children.

21 Senator Long. How much of that food stamp money is
22 going to -- in terms of billions I would like to know. How
23 much of that food stamp is going to families on these AFDC
24 roles?

25 The Chairman. I'm not certain they would know. I
 should know.

1 Senator Long. Somebody here ought to know.

2 The Chairman. Yes. They ought to -- 11 billion dollar
3 program.

4 Ms. McMahon. We believe half the food stamp program is
5 for families on AFDC.

6 Senator Long. 5.6, and how much of it is the AFDC?
7 What is the latest AFDC?

8 Ms. McMahon. I'm not sure I understand the question.
9 About 85 percent of the AFDC population receives food
10 stamps.

11 The Chairman. How about your budget for AFDC?

12 Ms. McMahon. The budget is -- the federal portion
13 is 7.7 billion dollars.

14 Senator Long. 7.7.

15 Ms. McMahon. Yes, sir.

16 Senator Long. And what is the state part?

17 Ms. McMahon. Be another 6.6 billion dollars.

18 Senator Long. So if you add all that up, that works out
19 to about 19.8. And now how much of the Medicaid is AFDC?

20 Ms. McMahon. I'm sorry. We don't have the answer for
21 that. I don't think there are any Medicaid people left in
22 the room.

23 Senator Long. Well, I think you ought to get it for us
24 because I just think we ought to be able to see the picture.
25 School lunch -- how much of the school lunch is AFDC? Do

1 you know that?

2 Ms. McMahon. No, sir, I don't.

3 Senator Long. Suppose we could find out?

4 Ms. McMahon. We will see if we can find out.

5 Senator Long. Because I just think that to complete the
6 picture we ought to look at how much we actually -- look at
7 all programs. I just think it doesn't give us the full
8 benefit if you're only looking at part of the program. You
9 have to look at all of it.

10 The Chairman. We can have that in maybe 30 minutes.

11 Senator Durenberger. Just in a ballpark number, Senator
12 Long, the total welfare system in the country today costs
13 us and state and local government \$92 billion. That is --
14 I think that is where you were headed with all of these
15 subsidized programs. The total is \$92 billion in federal,
16 state and local.

17 Senator Long. Well, basically though I was just looking
18 at AFDC. I just want to relate this population. I just
19 think we ought to relate this population to the effort we are
20 making. And I think that we need to see as much of the
21 whole picture as we can is all I'm saying. Thank you.

22 The Chairman. All right. If we can move -- first
23 take income security, then CES, then SSI, unemployment
24 comp, and and I'll say at the outset that we're dealing with,
25 again, very sensitive programs. The savings are not large.

1 There are a number of very small savings, and I know
2 that some prefer maybe finding some larger item, but I think
3 in these programs for the very reason stated, we have to be
4 very careful where we find savings. I've been in a mark-up
5 in the food stamp program it seems like for the last two
6 months going over almost every word in the Food Stamp Act
7 looking for savings, and we hope that we've been -- we've
8 directed the staff and asked the Administration's support
9 to make certain that areas we are looking at for small
10 savings are not going to have any adverse impact, and on that
11 basis maybe we could start.

12 Ms. Olson will, I think sort of outline as quickly as
13 you can -- take AFDC first, and then if we can go back, as
14 we did this morning -- maybe -- and then if anybody has a
15 specific question on one number we can spend more time on
16 that.

17 Ms. Olson. The first provision is in the blue book
18 on page 45. It would round benefits down to the next lowest
19 dollar each month. The second provision would prorate the
20 first month's benefits from the date of actual application,
21 rather than from the first of the month as in some states.

22 The third provision would --

23 Senator Bradley. What was that? Prorate the first
24 month's benefits?

25 Ms. Olson. From date of application rather than from

1 the first of the month.

2 The Chairman. In other words, you apply on the tenth
3 of the month, you are paid from the tenth?

4 Ms. Olson. To the end of the month.

5 Senator Bradley. We can calculate that precisely.

6 Ms. Olson. CBO calculated for us. The third provision
7 would exclude military absence as a reason for AFDC
8 eligibility unless there is a legal separation.

9 The Chairman. Can you explain that because we went over
10 that yesterday. In other words, this is where somebody goes
11 overseas and leaves the family -- goes to the welfare office
12 for assistance. Is that the case?

13 Ms. Olson. That's the case in about 10,000 households.

14 The Chairman. Now, we have a provision later on
15 reference to allotment. Is that correct?

16 Ms. Olson. That is the Child Support Program, yes.
17 The fourth provision is --

18 Senator Bradley. Could we go back just a minute. I just
19 want to understand. The military service is now that if
20 someone under the present law someone is in Germany or Japan
21 who is termed the head of the household -- is that the idea?

22 Ms. Olson. That's correct.

23 Senator Bradley. That no member of his family would
24 then be eligible for AFDC, or his income has to be taken into
25 consideration?

1 Ms. Olson. His income would have to be taken into
2 consideration.

3 Senator Bradley. Okay. And as of now in the law, his
4 income doesn't have to be taken into consideration.

5 Ms. Olson. He has left, and is not providing support.

6 Senator Bradley. Pardon?

7 Ms. Olson. If has left another area and is not
8 providing support, then the family can apply for AFDC based
9 on his absence.

10 Senator Bradley. Cannot?

11 Ms. Olson. Can.

12 Senator Bradley. Can.

13 Ms. Olson. Present law.

14 Senator Long. Let me ask you have we gotten around to
15 doing what we should have done? I know I've worked in that
16 area on occasion. Have we gotten around to doing what
17 we should have done to require that -- I know that for a long
18 time we had so if anybody was working for Uncle Sam, you
19 couldn't make him do the first decent act toward his own
20 children. Now, have we got around to fixing this thing
21 up so that if somebody is on Uncle Sam's payroll that we
22 can make him -- that the federal government can cooperate
23 in making him pay part of that money to his own children?

24 Ms. Olson. We have that allotment requirement under
25 Child Support Enforcement as a proposal.

1 Senator Long. Yes. Well, then that relates to, then,
2 this eliminating military. The reason if you've got him in
3 the military -- you are paying him a regular monthly check,
4 and if he has children out there, and he refuses to pay
5 them, you ought to just take part of that out of the check
6 like an allotment and send it to them. Is that right?

7 Ms. Olson. That's correct.

8 Senator Long. So the point is if we are running
9 intelligent policies, and the right hand knows what the
10 left hand is doing, then it should not be necessary for any-
11 body, any family of a person in the military to be on the
12 welfare. Isn't that about the size of it?

13 Ms. Olson. Yes, sir.

14 Senator Long. Okay.

15 Ms. Olson. Number four is a refusal to work sanction
16 for people who try to reduce their hours of employment or
17 refuse a job in order not to lose their AFDC eligibility.

18 The Chairman. That's not a very -- what -- a million
19 dollars?

20 Ms. Olson. One million.

21 Senator Long. Well, you see now that don't make any
22 money because you're doing it backward. If you're saying
23 that you are going to take this money and pay people to do
24 something, little though it may be, and -- you know, if you
25 said we're only going to require you to work ten hours and

1 we'll pay you ten dollars an hour just to do a little some-
2 thing, you would make a lot of money because that would be
3 a tremendous incentive for them to find something else to
4 do in other times rather than having a situation where you
5 cut their pay by two-thirds everytime they make a dollar
6 the way it is now.

7 Now, if you approach this from the other end, you would
8 make a lot of money with this proposal. Where you are not
9 involved with refusal to work. You're just not -- you're
10 paying them to work, and you're not paying them not to work.
11 Anyway. Go ahead.

12 Ms. Olson. Number five is a mandatory job search
13 provision. Would require the applicant to look for a job
14 while his application is pending and for a period of eight
15 weeks over the year's period of time that he is on the
16 benefit roles.

17 The states are free to structure the program as they
18 find efficient.

19 The Chairman. All right. Now, that is a job search.
20 Now, if he finds a job. If there is a job available, does
21 he take the job? That's how you pick up the money; right?
22 Not just looking?

23 Ms. McMahon. Yes, sir. As a matter of fact, we have
24 experience in several areas. For instance, in Oregon, they
25 found that 25 percent of their applicants found jobs before

1 they ever went on the welfare roles inspite of the fact
2 that they have fairly high unemployment.

3
4 The Chairman. So this is not an unreasonable provision
5 that is going to impact on some handicapped, disabled or
6 elderly?

7 Ms. McMahon. Those people would not be required. I
8 mean if you meet conditions where you are required to work,
9 if you were a recipient, we are saying those same people
10 ought to be required to look for a job while their applica-
11 tion is being processed.

12 We wouldn't require people who say they can't work to
13 go look for work.

14 Ms. Olson. The next three provisions are grouped to-
15 gether, page 47 of the blue book. The first would end the
16 eligibility of the parent for a benefit when the youngest
17 child in the family reaches age 16. The child's benefits --

18 The Chairman. What is it now? 18; is that correct?

19 Ms. Olson. Correct or until he graduates from high
20 school.

21 The Chairman. But what page in the blue book? Senator
22 Bradley is trying to locate it.

23 Ms. Olson. That is page 48. Number seven on page 49
24 would include the income of all minor children in the AFDC
25 assistance unit. At the present time, a family can exclude
a child who has child support and income or SSI or Social

1 Security. This provision would, with the exception of SSI
2 children require them to include the child and his income in
3 the assistance unit.

4 Senator Bradley. I'm sorry. What is the -- on page
5 what?

6 Ms. Olson. Page 49.

7 Senator Bradley. Page 49.

8 The Chairman. That is --

9 Senator Moynihan. We have two numbering.

10 Senator Bradley. It's --

11 Ms. Olson. Number eight is page 49.

12 The Chairman. It's the number eight on this four page
13 or five, I guess. It's in page 49 --

14 Ms. Olson. Page 49 starting about the middle of the
15 page. Eligibility of the child.

16 The Chairman. In the blue book. I wonder on that one
17 if the Administration could explain -- Administration supports
18 that provision?

19 Ms. McMahon. Yes, sir, we do.

20 The Chairman. And the rationale.

21 Ms. McMahon. The notion is that if you have a family
22 that goes on assistance, right now they have the opportunity
23 to decide who will and will not be included in the assistance
24 unit. Consequently, they gain the system. They can include
25 people that will give them more AFDC money, and they can

1 exclude -- for instance -- a child that is getting Title II
2 benefits so that that child's income will not count against
3 them. Our feeling is that we should look at the entire unit
4 because that income is available to the family and that
5 should be taken into account when those people apply for
6 assistance.

7 We do exclud the SSI child because we don't feel that
8 in that case that income should count against the family.

9 The Chairman. Number nine?

10 Ms. Olson. The next provision, number nine, page 50,
11 at the top would require the counting of the income of
12 unrelated adults. Right now we do that for step-parents
13 with disregards, and we would do it for unrelated adults
14 applying the same disregards.

15 The Chairman. Is that for the same reason -- the
16 Administration?

17 Ms. McMahon. Yes, sir. Again, if an individual is
18 living with an AFDC household and that individual has income,
19 that income is generally available to the AFDC family, and
20 we think that rather than having the taxpayer pick up that
21 charge that that individual who has some responsibility to
22 that family ought to have their income counted.

23 Senator Bradley. How would you enforce that?

24 Ms McMahon. It would be up to the individual applying
25 for assistance to provide information about income available

1 to the family that could be verified by the state. Otherwise
2 they wouldn't be eligible because we could not verify their
3 income.

4 Senator Bradley. So that if the recipient choose not
5 to, there would be no check to determine whether, indeed,
6 there was an unrelated adult in the house.

7 The Chairman. You do make checks.

8 Ms. McMahon. I'm sorry. If the recipient chose not to?

9 The Chairman. Not to reveal it.

10 Senator Bradley. Right. Not to reveal it.

11 The Chairman. And what happens?

12 Ms. McMahon. Well, the state does do verification and
13 checking. Some states still do home visits.

14 Senator Bradley. You mean like home visits.

15 Ms. McMahon. Some states do.

16 Senator Bradley. Let's assume -- how would that work?
17 In other words, you decide to make a home visit where you
18 thought there there was an unrelated adult in the household,
19 and how would you determine -- what is sufficient reason to
20 believe there might be an unrelated adult in the household?

21 And how long does the unrelated adult stay in the
22 household before he is considered an unrelated adult whose
23 income is counted in this provision? I mean don't you get
24 into administrative nightmares here?

25 Ms. McMahon. In the food stamp program, they already

1 look at everyone in the household, and generally in many
2 states you have the same case worker who is looking at both
3 the AFDC and the food stamp branch, and so there is a link
4 already where they would have information available about
5 this.

6 Senator Bradley. But that is not the answer to my
7 question.

8 Ms. McMahon. I'm sorry. And we would handle it the
9 same way as we do the step-parent issue.

10 Senator Long. It's becoming more and more accepted
11 for people to live together without the formality of a
12 marriage. Now that was frowned upon very strongly when I
13 was young, but today, you know, people -- it's all right
14 for these -- a lot of folks feel it's all right. And where
15 that is the case, and there is a man and a woman that are
16 living together, and they are in the same household, and
17 yet if that relationship was formalized by a marriage, there
18 wouldn't be any doubt about it at all.

19 That income would come for the family unit, and if they
20 choose not to formalize that relationship with a marriage,
21 but it's a regular relationship -- it's an ongoing
22 relationship, maybe the question is why shouldn't his income
23 be counted, and you think it ought to be?

24 Ms. McMahon. Yes, sir. I think I could also point out
25 that if an individual married and chose not to reveal that

1 fact. And that does happen. We do have fraud in the program.
2 We have fraud units in the states that investigate those
3 things. We have a hot line for GAO where neighbors can and
4 do, in fact, report those things.

5 Senator Moynihan. Well, Mr. Chairman, are we discussing
6 the issues? Are we right now staying out of them, or --

7 The Chairman. No, we're just going through them.

8 Senator Moynihan. Just going through.

9 Ms. Olson. Provision number nine would repeal the
10 Emergency Assistance Program now in place in about 27 states.
11 The uses would be allowed under the Low Income Energy
12 Assistance Block Grant proposed by the Administration.

13 Number ten is the provision which has been modified in
14 the Dole proposal. It would become optional for the states
15 to prorate for shelter and utilities in a household that
16 contains three people, for example, on AFDC, and two who are
17 not.

18 Senator Moynihan. Mr. Chairman, I don't want to make --
19 I just want to ask you to help us, Ms. Olson. We have two
20 different numbering systems. One is the white sheet. The
21 other is the blue book. Would you say that what is number
22 ten on the white sheet is number whichever it may be in the
23 blue book.

24 Ms. Olson. You would want to to turn to page 53 in
25 your blue book.

1 Senator Moynihan. We can turn the pages. Just tell
2 us what number it is.

3 Ms. Olson. Page 13 -- number 13.

4 Senator Moynihan. It's number 13; right.

5 Ms. Olson. And that is the prorated shelter and utility.
6 Senator Dole has proposed that it be made an optional choice
7 for the state.

8 The Chairman. The one that you are now looking at is
9 the original proposal. Is that correct?

10 Ms. Olson. That's correct.

11 The Chairman. And that has been sharply modified.

12 Ms. Olson. The last AFDC provision is page 55,
13 reduce the federal match for error rates. That has always.

14 Senator Moynihan. You mean number 15?

15 Ms. Olson. Yes, sir.

16 Senator Moynihan. On the blue book, and on the white
17 page it is number --

18 Ms. Olson. Number 11.

19 Senator Moynihan. Number 11. All right.

20 Ms. Olson. Senator Dole has modified that proposal
21 to require the states to reduce their errors or we would
22 reduce the match, in other words, for errors above three
23 percent. The Administration proposal had the error rate
24 phasing to zero by 1986. We would stay at three percent
25 starting in Fiscal Year 1983.

1 The Chairman. And again, that is based on rather
2 extensive work in the food stamp program where we didn't
3 think it was possible to reach the zero error rate in any
4 of these programs. Again, there are people moving in and
5 out of the program.

6 What is the average error rate in AFDC?

7 Ms. Olson. 7.3 for the last period that has been --

8 The Chairman. Are any states below three percent?

9 Ms. Olson. There is one state at 2.5, I believe.

10 That's right.

11 The Chairman. Is that Nevada. They have two people.

12 Ms. Olson. It was Nevada.

13 The Chairman. They're good in food stamps, too. I
14 mean they don't have but a dozen or so, and they don't make
15 too many errors.

16 Senator Bradley. It's down to three percent.

17 The Chairman. Pardon?

18 Senator Bradley. That's the error rate you want?

19 The Chairman. Rather than zero.

20 Senator Bradley. Should we put in a same kind of
21 sliding scale that we had talked about with Medicaid that
22 if the state is making progress? Could we do the same thing
23 that we talked about with Senator Durenberger?

24 The Chairman. I thought about increasing the '83
25 number two 3.5 percent initially rather than three, and then

1 it gets us back about where we were in Medicaid, but we
2 hadn't quite figured out the language. Anybody want to
3 comment on that?

4 Ms. Olson. If you went to 3.5 percent error rate for
5 Fiscal Year 1983, I think you lose about \$30 million of
6 your savings according to CBO.

7 The Chairman. I mean are we talking about the
8 practicality in doing it.

9 Senator Moynihan. Mr. Chairman, can I suggest we were
10 going to just run through these, and then we were going to
11 go back and talk about them.

12 The Chairman. Sure. Okay. At least we've identified
13 a problem there. Then, now the entire list is open for
14 discussion. Obviously, the Senator from New York -- or
15 do you want to go through the whole --

16 Senator Moynihan. Shall we just go --

17 The Chairman. Okay. Sure. All right. Then, we will
18 move on to CSE, Child Support Enforcement.

19 Ms. Olson. That starts on page 63 in the blue book;
20 number one on the white sheet, and also number one in the
21 blue book. That should have been passed out. There is
22 a modification to the Administration proposal. And what
23 the modification --

24 The Chairman. Wait. Let's hold it up. We don't know
25 whether we have it or not. It's been passed out.

1 Ms. Olson. It's a two page sheet, and you want to turn
2 to the second page.

3 The Chairman. I think --

4 Ms. Olson. Mike, it has --

5 Senator Bradley. Where is this?

6 The Chairman. It's a two page.

7 Senator Bradley. Are we on child support now?

8 The Chairman. Yes. It's a two page -- it's on the
9 second page. Is that right?

10 Ms. Olson. That is correct. Mike. What we have
11 done is pick up the Child Support Enforcement collection
12 fee for non-AFDC families from HR-4717 now in conference.
13 This provision has been agreed to by the Senate. It's
14 returning to previous law, prereconciliation act of last
15 summer. The fee would become optional with the states.

16 They could have either a fee or a percent. We have also
17 include Senator Long's change that he brought up in the
18 conference report. CBO has not given us an estimate for
19 savings at this time, but they do think there would be a small
20 amount of savings.

21 Senator Bradley. Why are we making this change if
22 they're not saving?

23 Ms. Olson. The change that was adopted in reconciliation
24 has been described as unworkable by the state administrators
25 and they have urged the House which included this change

1 in 4717 to make the change.

2 The Chairman. 4717 -- you mean the bill in conference
3 now? This provision is in conference?

4 Ms. Olson. This is the conference -- this is the version
5 agreed to in conference. That's correct with Senator Long's
6 change.

7 The Chairman. Well, we are going to finish that
8 conference. Do we need to put it in here?

9 Ms. Olson. We would need it for the small amount of
10 savings that are associated with it.

11 The Chairman. Oh, I see. In other words, you are
12 putting it in here rather than -- in an effort to take
13 advantage of any savings which are not yet known; is that
14 correct?

15 Ms. Olson. That's correct.

16 The Chairman. Is CBO working on an estimate?

17 Ms. Olson. They are.

18 The Chairman. This is a matter of particular interest
19 to Senator Long. Joe, have you looked at this provision?
20 All right. Go ahead. Child Support?

21 Ms. Olson. The second provision, number two, on page
22 64, and it's number four in the blue book refers to the
23 military allotment for members of the armed services.
24 This would amend Title IV as it was drafted by the
25 Administration. It amended Title 37 not in our committee

1 jurisdiction. It has been redrafted so that it is a Title
2 IV Amendment. It would require that if a man who has a legal
3 separation or divorce is behind two months in his child
4 support payments, he could have them allotted from his
5 paycheck, and they would go to the AFDC family or the
6 state, if they have been assigned the status condition of
7 AFDC eligibility.

8 The Chairman. Number three on reimbursement of state
9 agency. Which number is that? Which page in the blue book?

10 Ms. Olson. That is page 66, number six. Under current
11 law, a family can receive a double payment for the same
12 month first in the form of AFDC, and then when the child
13 support is collected.

14 This provision would eliminate the double payment by
15 allowing the state to reimburse its AFDC agency when the
16 support collection is made. The family would get one payment
17 for the month rather than two.

18 The Chairman. All right. The next section, the
19 Child Welfare, Foster Care, Adoption Assistance, there are
20 no savings provisions included. There were some Administration
21 provisions; right, which we have not included in this
22 package.

23 Ms. Olson. Right.

24 The Chairman. That is the same in the Social Services
25 Block Grant. It was determined that we should make no

1 change in that title. Is that correct?

2 Ms. Olson. That's correct.

3 The Chairman. There was even recently as yesterday
4 a two percent reduction, but it seemed to me that would not
5 be the appropriate thing to do. And SSI, Ms. Weaver?

6 Senator Moynihan. Well, Mr. Chairman, why don't we
7 stay with children, and then we will move to SSI. Would
8 that be sensible?

9 The Chairman. Sure. Let's go back to AFDC? Is
10 there anything left? That would take care of it. Then,
11 we will start. Anybody want to discuss, further discuss,
12 or make any proposals with reference to AFDC?

13 Senator Bradley. Well, will the -- I'm not going to
14 end this, Mr. Chairman, but the proposal of rounding AFDC
15 eligibility benefits to the lower of the whole dollar --
16 hasn't it been the general practice to round up and not
17 down in benefits program? I don't claim to know, but why
18 are we doing this? We are only doing this to reduce --
19 for savings, clearly.

20 Ms. Olson. The states believe it would streamline
21 administration somewhat. It is supported by the APWA.
22 The assume an average recipient reduction of about 50 cents
23 a month.

24 Senator Bradley. You could round up?

25 Ms. Olson. You could round up.

1 Senator Bradley. The American Public Welfare
2 Association supports this?

3 Ms. Olson. Yes, sir.

4 The Chairman. Are there other questions with reference
5 to AFDC? Did you have an amendment, Senator Moynihan?

6 Senator Moynihan. Mr. Chairman, I would like to go
7 right though the whole 11 proposals.

8 The Chairman. Oh, sure. Okay.

9 Senator Moynihan. A third of the children in the
10 United States are involved here, and prorating the first
11 month's benefits based on date of application, well, that is
12 a reasonable proposal. I mean people should expect to
13 get their benefits from the time they ask for it.

14 And that to some extent -- again, that's a reduction
15 in benefits. We've had two reduction in benefits.
16 Eliminating military service, I think that's a reasonable
17 one.

18 Can we speak now to the end of parent benefits when the
19 child is 16?

20 Ms. McMahon. This was proposed on the grounds, I
21 guess that by the time the youngest child has reached 16,
22 the mother, or caretaker relative is not as necessary in
23 the home. The needs for child care or non-existent one
24 would assume. It is a proposal that we adopted for Social
25 Security benefits last summer.

1 Senator Moynihan. And so, again, that is a benefit
2 cut?

3 Ms. McMahon. Yes, it is.

4 Senator Moynihan. Which is that benefit which has
5 been in place since 1935?

6 Ms. McMahon. No.

7 Senator Moynihan. Well, no parents. Since AFDC 1940,
8 I guess. Could I ask -- is there any research? Does the
9 Department of Health and Human Services offer us any
10 information? You say you assume that the child care is
11 not necessary.

12 Have you studied the matter. Do you have some data
13 that you could present to us?

14 Ms. McMahon. I'm sorry. Any data that these people
15 would be able to work when the child is 16 rather than two
16 years later? Is that the question?

17 Senator Moynihan. Yes.

18 Ms. McMahon. Of the child care costs. I'm sorry.

19 Senator Moynihan. This is a proposal to end the
20 parent's benefit at age 16.

21 Ms. McMahon. Right. Well, when the parent was
22 included in the benefits after the program first started,
23 it was on the notion that these individuals would be staying
24 home to take care of the children. They wouldn't be
25 available to go out and go to work.

1 In terms of the society we live in today with 51 percent
2 of mothers working, with many mothers with young children
3 working, we particularly felt that keeping people in a
4 dependent status any longer than absolutely necessary was
5 not to the advantage of the individual and the family,
6 and that once a child is 16, normally these children are not
7 at home with the mother when they are not in school.

8 The mother really isn't keeping close watch over them.
9 And that it would be to her advantage to be out getting
10 a job and starting to move away from welfare while her
11 children would still be eligible so she would be getting
12 some assistance rather than wait for the time where she's
13 just absolutely cut off, and she has nothing, and she
14 hasn't really had any transition to employment.

15 Senator Moynihan. Well, I simply ask the point -- is
16 there a research paper in the department that argues this
17 case, or does this come under the heading of perfectly
18 respectful common sense proposal?

19 Ms. McMahon. I think it is perfectly respectable,
20 common sense.

21 Senator Moynihan. Can I ask without the least bit of
22 aspersion, are you ever going to bring us some data to this
23 committee, not you, but your department?

24 Ms. McMahon. In reference to?

25 Senator Moynihan. These things.

1 Ms. McMahon. Are you speaking, like, for instance, on
2 the evaluation of the '81 changes, the 1981 Amendments,
3 the changes we made?

4 Senator Moynihan. Yes.

5 Ms. McMahon. We are in the process right now of letting
6 two contracts which should be completed between six months
7 and one year -- six months for one and a year for the other
8 -- that will provide data on some of the issues that relate
9 to the changes we made in '81.

10 Senator Bradley. Why 16, not 15 or 7?

11 Ms. McMahon. Well, I suppose we could go to 15.

12 Senator Bradley. No, why?

13 Ms. McMahon. Generally, in some states the child is
14 no longer considered a minor at age 16. I know also that
15 this committee had looked at the issue of possibly terminating
16 the Social Security benefit for a parent when a child reached
17 that age. And I think it was those things that we looked
18 at in terms of picking that particular number.

19 Senator Moynihan. Isn't it the proposal of the
20 Administration to abolish Title IV of the Social Security
21 Act under the New Federalism?

22 Ms. McMahon. Oh, you are speaking of having the states
23 pick up the AFDC program in exchange for the federal
24 government picking up Medicaid?

25 Senator Moynihan. Pick up if they choose.

1 Ms. McMahon. I'm sorry?

2 Senator Moynihan. Pick up if they choose. This
3 Administration is proposing to strike Title IV from the
4 Social Security Administration.

5 Ms. McMahon. Well, I'm not terribly familiar with the
6 negotiations that have gone on on New Federalism. I do
7 understand that in the discussions there is something about
8 maintenance of effort, and I just really couldn't speak
9 intelligently about what is going on. I don't think it is
10 our intention to do away with assistance to dependent
11 children.

12 Senator Moynihan. It is surely your intention to
13 do away with it as a federal program?

14 Ms. McMahon. That is true in terms of the New Federalism.

15 Senator Moynihan. That's true. After 45 years we
16 are going back to the Widow's Act of 1912, if those states
17 choose to adopt them. There is not -- mind you this has
18 not been presented at statute, but Mr. Chairman, I think
19 we have to consider these matters in the context that these
20 most radical proposal made in this area by this
21 Administration is to abolish and do away with the federal
22 commitment to provide income support to dependent children
23 which was Title IV of the Social Security Act of 1935 and
24 return that to the states where some vague way they will
25 be expected to carry on, and some states will have

1 constitutional amendments and some states will not. Some
2 states will be so disposed, and some will not. And I detect
3 the same spirit -- you say well, 15 -- why not 15 or 14?
4 I mean -- these are just reducing benefits. I don't --

5 Ms. McMahon. I would like to reiterate the fact that
6 in the negotiations that are going on on New Federalism, and
7 there is no proposal on the table right now before the
8 Congress. The discussion is that there would be a maintenance
9 of effort, and that there would be a commitment of federal
10 dollars. So, although the proposal is not finalized I
11 think it would be erroneous to say that we are abolishing
12 the program, and that there will be no federal commitment.

13 Senator Moynihan. But it is not erroneous --

14 Ms. McMahon. Since I don't really know anything more
15 about it, I don't feel qualified to discuss it.

16 Senator Moynihan. Well, none of us. We just hear about
17 it, read about it a little bit. But it is proposed to do
18 away with the federal payment of benefits to dependent
19 children. Now, that is proposed.

20 Ms. McMahon. I'm not sure that is an accurate statement
21 in terms of the negotiations of what federal dollars would
22 be committed.

23 Senator Moynihan. Well, I admire your efforts, Ms.
24 McMahon.

25 Senator Danforth. As I understood the program, the

1 federal government was to take over all of Medicaid.

2 Senator Moynihan. That's right.

3 Senator Danforth. And, therefore, the states would be
4 relieved of any burden of Medicaid which was said to be the
5 fastest growing of the support type programs, or the grant
6 type programs, and at the same time, the local governments
7 were to swap for their Medicaid responsibility, AFDC and
8 food stamps, and that the result of that, and there have
9 been heavings on that, and that the result of that is that
10 the governors hit the roof, and that as far as food stamps
11 are concerned the Administration has now pulled back on
12 the food stamp part of it, and has agreed to keep that.

13 And I think that it is fair to say that they are under
14 considerable pressure from the number of people in the
15 country, and also from the governors to also pull back
16 on AFDC.

17 But they have been attempting to put forward some
18 idea of reallocating administrative responsibility and
19 decision making responsibility for that matter because if,
20 in every type of program the federal government has a
21 fraction of the program, and the states have the fraction of
22 the program, the result of it is that the states are, in
23 essence, simply administrative arms of the federal government.

24 So the notion was, as I understand it, to try to have
25 a redealing of the cards so that there would be some things

1 that the states would do, and other things that the federal
2 government would do, but I agree with you that AFDC --
3 as a matter of fact, it is my view that AFDC is not one of
4 the things they could do. But I'm not sure that this is
5 the forum for debate of that.

6 Senator Moynihan. It is not. I just wanted to say
7 it. That's all.

8 Senator Danforth. Voice your concern.

9 Senator Long. Well, Mr. Chairman, I just want to put
10 an ore in here where Ms. McMahon is arguing about the
11 children, young people 16 years of age. When you're
12 looking at -- the idea of putting the parent on the welfare
13 rolls with the child was that with small children it was
14 expected that we would pay somebody to stay home and
15 look after the child. Now, in the absence of the child,
16 the adult would not be eligible to go on the welfare rolls.

17 Now, when the child reaches age 16, that child doesn't
18 need Mama to stay there and babysit that child. That
19 child at that point is capable of babysitting herself or
20 himself as the case may be. That child is capable of
21 going out and earning some money to help support the family.
22 So that there is no longer much argument to say that where you
23 have a normal healthy child at home that Mama has got to
24 stay home and babysit that child after age 16. That is
25 basically your argument; isn't it?

1 Ms. McMahon. Yes, sir, it is.

2 Senator Danforth. And also the Senator Bradley's
3 question about why not 15 or why not 17? At 16, in most
4 states at least kids can drive, and there is definitely
5 a major difference in the amount of time spent around the
6 house between the 15 year old kid and the 16 year old.

7 Senator Long. I was driving well enough to tear an
8 automobile all to pieces at age 15.

9 Senator Moynihan. How many AFDC families have cars?
10 Do you have the data on that?

11 Senator Long. You just might be surprised.

12 The Chairman. Probably don't want that number.

13 Senator Moynihan. Mr. Chairman, if I can say -- I have
14 a small amendment --

15 Senator Danforth. Do we know the answer to that
16 question?

17 Ms. McMahon. I think it probably isn't more than
18 five percent, but I would like to check that for the
19 record.

20 Senator Moynihan. Five percent have cars. Well, we
21 say five percent of the families with children between
22 16 and 18?

23 Senator Danforth. Well, I would doubt that those
24 without cars are hanging around the house. I mean I really
25 think that there comes a time in a child's age when he tends

1
2 to leave, whether it is with wheels under him, or without
3 wheels.

4 Senator Moynihan. There are those of us who find
5 that there comes a time in a child's age when they ought to
6 leave, but don't.

7 Senator Danforth. That's at about age 21.

8 The Chairman. We are having the same problem with
9 senators, I think.

10 Senator Moynihan. The one subject, I guess I would
11 like to address as an issue of policy here is the one on
12 the error rate, and this is a difficult one for us to
13 discuss because to raise it seems to be in favor of error.
14 And if that is so, sobeit.

15 But if I understand this program, and I have tried to
16 understand it over a long while, getting down to a very
17 low level of administrative error is just damn difficult.
18 It is just a turbulent, churning program, full of every
19 incentive for -- a lot of incentives for mistakes, an
20 enormous number of possibilities, and to ask -- are we
21 now asking -- is it three percent of that we're proposing?

22 Ms. McMahon. That is the proposal for Fiscal Year '83.

23 Senator Moynihan. And I understand that you have
24 made -- this is not something I know. I ask in innocence?
25 What number is that in the blue book again? Forgive me.
I'm looking to see the benefit calculated.

1 Ms. McMahon. Page 55, number 15.

2 Senator Moynihan. Now, I understand that the estimated
3 savings which are not inconsiderable, half a billion dollars
4 over three years -- the estimates were made not in terms of
5 the savings to the program that would result from the
6 states actually reducing their errors but rather from the
7 savings to the federal government in consequence with the
8 states not having been able to do so. Would I be wrong in
9 that?

10 Ms McMahon. I think that is correct.

11 Senator Moynihan. Now, Mr. Chairman, did you hear what
12 I said? I didn't mean that. I'm sorry, sir. You've been
13 so patient with us all day. And we appreciate it, and
14 you have been extraordinarily responsive to this side in
15 trying to ease what is not a pleasant task for you anymore
16 than it is for us, but on the error rate, the estimate
17 made, and has just been confirmed by our very candid and
18 very helpful witness, friend, former colleague from the
19 Administration, that the escalated savings which are to be
20 -- am I correct -- what are the estimated savings? They
21 are 234 million, 105, 167.

22 Ms. McMahon. You are reading the savings for the
23 Administration's proposal. The Dole proposal stays at
24 three percent, and the '83, '84, '85 savings are at 41
25 million. That is on the white sheet.

1 Senator Moynihan. On the white. I see. All right.
2 The Chairman. So we rejected the Administration.

3 Senator Moynihan. But even so, the Administration
4 proposals, the savings were estimated not to result from
5 a successful reduction of error rate, but rather from the
6 assumption that the states would not be able to do so, and
7 that -- because you can't do it.

8 Now, I --

9 Ms. McMahon. Well, we get the savings either way.
10 If the state could not reduce, we wouldn't pay for that
11 amount so we get the savings. If the state did reduce,
12 obviously, they wouldn't be spending that amount. We
13 wouldn't be matching it, and we would still get the savings.

14 Senator Moynihan. What do you think to be the real
15 probability here? I mean my state of New York is about
16 average in these matters. What is the average error rate
17 not for the averaging states by adding them up and dividing
18 by 50, but for the program as a whole?

19 Ms. McMahon. The last error rate that we had was 8.3
20 percent.

21 Senator Moynihan. 8.3, but that is the rate for all
22 recipients, not just adding Delaware to Pennsylvania and
23 dividing by two?

24 Ms. Olson. That is the U.S. average.

25 Senator Moynihan. Is it the average of states or the

1 average of all the cases?

2 Ms. McMahon. Total cases.

3 Senator Moynihan. All the cases. So you would have to
4 go from 813 down to three?

5 Ms. McMahon. Yes, sir. Of course, you have to remember
6 when we started this ten years ago that the average was
7 16.

8 Senator Moynihan. Higher. Much higher.

9 Ms. McMahon. And unfortunately because we never have
10 taken sanctions, it's been difficult to get some states to
11 really believe that they need to get their error rates down.

12 The Chairman. Could I ask -- have you consulted with
13 the governors or representatives of the states on this
14 issue?

15 Ms. McMahon. We've discussed it with them, yes.

16 The Chairman. And I know they were opposed to zero,
17 but in the food stamps, we adopted only yesterday in our
18 committee -- it was my proposal -- the average was 10.6
19 percent nationwide. We have now a phase-in down to five
20 percent at the end of three years. And that is embraced
21 by the Governors Association as realistic.

22 Senator Moynihan. Could we not have a phase in down to
23 five year -- down to five percent in three years here?

24 Ms. McMahon. We already do that under the Michael
25 Amendment. I mean the states have already been in a phase

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down process.

The Chairman. Down to four?

Ms. McMahon. Yes, sir. And this would be the following year down to three.

Senator Bradley. Mr. Chairman, again, this raises the issue of best effort and improving your error rate situation. And as we talked about it with Medicaid states making progress -- you want to encourage them to make that progress. At the same time you don't want to pull the rug out from under them and give them a big revenue shortfall in one year.

And it is just a reasonable approach. I mean I don't know if the specific scale that you could apply, best effort. But I mean I think -- is there any way we can kind of leave this open so that we could try to see if in the next four of five days we can work on this just as we did on the --

The Chairman. I might suggest that we do that. In other words, we do work on it with the Administration and committee staff on both sides and others who have an interest.

Senator Long. Let me ask you this though. Before we got involved in this -- Mr. Stern, I want you to give me the benefit of your recollection on this, if you can. Before we got involved in all this error rate, didn't we have come across the situations where like for the whole state of Maryland, they only had one investigator outside the city

1 of Baltimore for the whole state, that type of thing --
2 Do you recall some of that?

3 Mr. Stern. I don't call specifically for the state of
4 Maryland, but I think it would be correct to say that up
5 until about ten years ago, not too much attention was paid
6 to what we call quality control today.

7 Senator Long. I recall, of course, somebody did a
8 story -- I guess it had some glamour to it and therefore
9 got some publicity in the Washington newspapers about some
10 ring over there in Maryland, putting some fellow in charge
11 of putting all these people on the welfare. I think he
12 drove a big limousine. They called him "Red" something
13 or other.

14 And he would have all these wigs and one thing and
15 another for ladies to change as they go inside and get on
16 the welfare rolls under more names than one. We had all
17 kind of mischief like that going on before we started
18 clamping down and demanding that they do something about
19 these error rates. Did we not? That was my impression.

20 Mr. Stern. That's right. I think over the last
21 ten years both administratively and also legislatively
22 you've instituted a number of things such as requiring
23 the use of Social Security numbers in order to prevent that
24 sort of situation. That was a direct criminal fraud
25 situation. But he was able to take advantage of sort of

1 the legacy of the 1960's of declaration method and simply
2 coming in and applying, and he did have this group of women
3 that he simply carried around from one welfare office to
4 another and they would just make a series of application
5 and no checks were made.

6 Senator Long. But we even had an attitude -- and
7 I gained the impression that it is a rather prevalent
8 attitude in some areas that, including in Washington itself,
9 of why worry checking on any of this stuff. These are all
10 poor people, low income people getting the money anyway,
11 so why even bother to look into it.

12 Wasn't that attitude sort of prevalent around the country
13 at that time?

14 Mr. Stern. I believe so, yes, sir. I think that was
15 one of the reasons for the growth in the statistics,
16 particularly in the '60's and once it was clear that the
17 Congress was not enacting the kind of guaranteed minimum
18 income program where the federal government would take
19 over the responsibility, then things sort of settled down
20 and the states started administering their programs more
21 tightly, and the Child Support Program was enacted, and
22 certain other pieces of legislation, they tried to tighten
23 up on the administration, and the trend really reversed
24 itself, and the rolls stabilized.

25 Senator Long. Well, my thought about it is that I don't

1 want to vote to put any unreasonable burden on the states,
2 something that they can't reasonably be expected to do,
3 but if we still have some states out there that haven't
4 gotten the message that we want them to do a job of
5 carefully looking at their case load and putting the people
6 on that belong on there and not putting the ones on that
7 don't belong on there -- if they don't have the message yet,
8 I would hope that we would see that they do get the message.
9 Now, what do you think about that, Ms. McMahon? Do you
10 think we really ought to go down to three percent or say
11 four or a higher figure?

12 Ms. McMahon. Well, our proposal is to go -- to phase
13 down to zero eventually so we certainly support going to
14 three percent.

15 Senator Moynihan. Mr. Chairman, if I may just say the
16 proposal to phase down to zero was accompanied by the
17 proposal to zero out the program. I mean quite seriously
18 we have to -- in all truth, this is the Administration that
19 has said that the care of the children will no longer be
20 a federal responsibility, and that is quite a striking
21 decision.

22 The Chairman. I didn't think zero was realistic in
23 any of the programs.

24 Senator Moynihan. Minus one.

25 The Chairman. Senator Bradley?

1 Senator Bradley. Mr. Chairman, isn't what we are
2 really talking about here -- I think everyone wants to try
3 to have the program administered as efficiently as possible,
4 but are we talking about error rate or misspent funds?
5 It seems to me like we're talking about misspent funds
6 more than we are error rate.

7 For example, this morning we raised the possible
8 technical problems. You lose your Social Security card.
9 Somehow or another you are figured in the error rate,
10 but you're not having misspent funds.

11 Is there anyway in the language of this we could
12 conform the intent more to the idea of misspent funds than
13 to error rate specifically?

14 Ms. McMahon. The things that you are speaking of which
15 are called technical errors, the Social Security number,
16 WIN registration and Child Support assignment are actually
17 conditions of eligibility in the law. When the department
18 looked at regulations under both the March 7 regulations
19 that came -- that were about replacement for the Michael
20 Amendment, and then the regulations to carry out the
21 Michael Amendment, this discussion of technical errors came
22 up.

23 But it was the Department's decision that because the
24 Congress passed a law that said in order to be eligible for
25 the program, you must have a Social Security. You must

1 register for WIN if you are required to do that, and you
2 must assign child support. We felt that it was necessary to
3 include those as errors because technically those people
4 are not eligible for welfare.

5 Senator Bradley. Well, is there anyway that we can
6 get the language more toward misspent funds since that is
7 really what we are talking?

8 The Chairman. Does the Department want to address?

9 Senator Moynihan. Perhaps we could do that. the SSI
10 which is federally administered has an error rate of
11 5.3 percent. And there is a point at which we're not
12 changing error rates. We're just reducing federal payment.

13 The Chairman. All right. Let's try to address this
14 real concern. I think we're better than it was. Three is
15 better than zero. 3.5 might be better in '83 than three.
16 Again, if it's simply going to mean the reduction in
17 benefits, then maybe we need to approach it, and again,
18 I don't -- we may have to find some other savings provisions.

19 You had amendments to this?

20 Senator Moynihan. Mr. Chairman, I have three, and
21 before I do that, one other just very brief remark. One
22 of our good witnesses observed -- I guess Mr. Stern --
23 that this program is not growing. As a proportion of the
24 federal budget, this program is declining. Is that not
25 the case, as a proportion of the federal budget?

1 Ms. Olson. It is declining.

2 Senator Moynihan. It is declining. This is not 1968,
3 and yet there are an extraordinary number of children
4 who are involved.

5 Senator Byrd. I wonder if you would yield?

6 Senator Moynihan. Of course, I would.

7 Senator Byrd. I just want to say in regard to
8 that why in the world shouldn't the states be required to
9 come somewhere near accuracy when they expect federal
10 funding for these programs? I don't know why we should
11 have a great tolerance of errors. Seems to me three percent
12 is reasonable.

13 Senator Grassley. Well, declining as a percent of the
14 budget, but is it declining in the number of people who are
15 on the roll?

16 Ms. Olson. I understand the number of households are
17 decreasing.

18 Senator Grassley. Are increasing?

19 Ms. Olson. Decreasing.

20 Ms. McMahon. The changes that the Congress made last
21 year in the program have resulted in a reduction of about
22 259,000 cases. It was only because of the set of changes
23 made last year.

24 Senator Grassley. Okay. But it wasn't declining before
25 that?

1 Ms. Olson. No, sir, it was not.

2 Senator Grassley. So it's not declining because
3 welfare is any less appealing?

4 Ms. McMahon. Not at that time.

5 Senator Moynihan. Mr. Chairman, I do have a few
6 amendments that I would like to offer, and the first goes
7 to the amendments we offered last time. And perhaps someone
8 could pass these out. Or I will pass them out. The states
9 would continue to have the option to provide Medicaid
10 coverage to working -- those working poor families who
11 lost this coverage because of changes in the earned income
12 disregard and the work expense deductions in the program
13 which we adopted in the Omnibus Reconciliation Program last
14 year. A very brief defense.

15 Mr. Chairman, last year we did something which I think
16 was incoherent given the thrust of this committee's behavior
17 for so long. We cut back sharply the income disregard.
18 We limited it to three months, as you recall.

19 And we also cut back sharply the expense deduction, and
20 the result of that -- families where there was receiving
21 AFDC, but working frequently found that they could no
22 longer eligible for the AFDC, and therefore no longer
23 for Medicaid either, and the shearing incentive there was
24 if you keep at work, you lose Medicaid benefits.

25 The Chairman. Is there anything with --

1 Ms. McMahon. Well, our feeling is that the states
2 already have the option because they can have a medically
3 needy program.

4 The Chairman. Well, if they already have it, is
5 there any problem with the amendment?

6 Senator Moynihan. But why not keep it something
7 familiar to the people in the system who don't -- aren't
8 told that if you keep your job you lose your Medicaid?
9 It will be a state option. It's a state option. Those
10 that wish to do, can do. Those that don't, don't.

11 And the cost is negligible.

12 Ms. McMahon. We haven't really had a chance to look
13 at it. I notice this says that the cost would be negligible.
14 We don't think that that is the case. We think it would
15 be very expensive, and rather than comment one way or
16 the other at this point, I think we really need to look at
17 it.

18 The Chairman. Could we put it over as we are putting
19 over the other --

20 And I know that Senator Durenberger
21 has an interest in this amendment, too.

22 Senator Moynihan. Oh, I'm sure he would. Yes.
23 We'll have time to take it up next week. Then, I have a
24 second amendment, Mr. Chairman. This is a difficult
25 proposition to establish or to falsify, as the scientists

1 say, but there does appear to be a problem of what we can
2 call second generation AFDC families in which a dependent
3 child becomes a parent, and then establishes a separate
4 household.

5 And this amendment -- it allows minor children to
6 establish their own household if they meet eligibility
7 criteria, but it does say in order to qualify for AFDC
8 benefits, a minor parent or child who meets all other
9 eligibility requirements would have to reside in the home of
10 the parent, own parent or guardian.

11 The object is to prevent that vociferous tendency
12 which, I think, is sort of agreed on in the literature.
13 Nobody knows that much about it. The savings involved are
14 small, and if it doesn't work, we can change it. If this
15 comes into law, I would hope the department would pay
16 attention to it, and has some judgment on what has been
17 the effect. It may be it has no effect. It may be it
18 has an official one, and it may not.

19 I think the argument -- the judgment of professionals
20 in the department right now is that this would be a good
21 thing to do.

22 Ms. McMahon. Yes, sir. We would support the provision
23 that you putting forth. It pretty much extends something
24 that we were doing, and we would be happy to look at that
25 and see what the effect is and give you some feedback if

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1 this does become law.

2 The Chairman. And without objection, the amendment
3 would be adopted.

4 Senator Moynihan. I thank the chair. I have one other
5 proposal in AFDC.

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1 in fact, ask you to draft the language. But does the
2 Committee get the point? A family loses its job. It's
3 destitute. The state, out of its own funds, gives it some
4 money and then says, you know, you're eligible for AFDC
5 benefits. But then in calculating the AFDC benefits, they
6 shouldn't -- they should have the option of not calculating
7 the money they gave them because they didn't have any income.
8 But that wasn't income, that was a -- just another form of
9 public assistance.

10 The Chairman. I see no objection though. We'll let
11 together with Senator Moynihan let someone draft some
12 language. And if you're going to draft it, I assume that
13 is satisfactory. Yes, Senator Grassley.

14 Mr. Grassley. I have a question and I don't expect
15 to have the answer now, but I'd like to have the answer
16 before we do discuss Mr. Moynihan's first amendment.

17 How many recipients or how many people went on AFDC
18 as a result of our income disregards and the supposed
19 rationale that they couldn't afford to work anymore because
20 they could get more on welfare than -- than work?

21 Ms. McMahon. ... In other words, how many people quit
22 their jobs and went on welfare?

23 Senator Grassley. Yes. Because of --

24 Ms. McMahon. The evidence that we have right now is
25 there is about a ten percent recidivism rate. In other

1 other words, as many as ten percent of the people who were
2 working and went off welfare, then quit -- well, I don't
3 want to say quit jobs and went back. Either lost jobs, quit
4 jobs. We don't really know how many people went back on
5 welfare because they voluntarily quit a job saying I can't
6 make it without the welfare and it's not worth working and
7 I'm going to go on welfare.

8 Senator Grassley: Then how many --

9 Ms. McMahon. We're still following that in the couple of
10 the studies that we're doing are looking at that whole
11 business of the impact on work effort.

12 Senator Grassley. Then how many of those -- how does
13 that compare to what was suppose to happen as we adopted
14 that a year ago?

15 Ms. McMahon. Well, frankly, Senator, a ten percent
16 recidivism rate in a welfare program is not unusual. A lot
17 of things happen . The people who are on AFDC are the kinds
18 who tend to come and go. Their circumstances change
19 regularly.

20 And so we don't think that this is an unusual circumstance.
21 We certainly think that if 90 percent who are affected by
22 that have made it, they've maybe increased their work effort
23 in order to make up for the loss of welfare. That it's
24 a definite plus as a public policy decision.

25 The Chairman. As I understand you're looking at the

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1 first amendment, we've accepted the second amendment, we
2 don't see any problem with the third amendment. But that
3 will be drafted in --

4 Senator Moyhihan. We have a draft.

5 Mr. Chairman. Oh, you have a draft.

6 Senator Moynihan. But they can look at it.

7 Mr. Chairman. Oh, good.

8 Senator Moynihan. And may I say, Mr. Chairman, on
9 the first point to Mr. Grassley's sensible question. You
10 will not -- you will rarely get a good clear answer to a
11 kind of good clear question of that kind. People's
12 motivations and circumstances are so complicated.

13 But what you can do is write in a -- the opportunity
14 for states to -- not to put people in choices which, in some
15 cases, would just impel them to go on welfare.

16 Senator Grassley. I can appreciate the fact we do not
17 get a clear reading of it. On the other hand, from the
18 people who opposed what we did last year, you get the feeling
19 that they absolutely know that there is just, you know,
20 hundreds of thousands of cases of those things happening.

21 Senator Moynihan. Well, there's an old New York saying
22 that it is not ignorance that hurts so much as knowing all
23 those things that ain't so. And there is plenty of that
24 in this business, I'm afraid.

25 Mr. Chairman. Now, Senator Moynihan, is there any

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1 objection if we could agree to this AFDC portion and keep
2 as the caveat of the amendment and plus trying to come up
3 with some easing, if we can.

4 I do not know, I tend to agree with Senator Byrd. It
5 may not be the right direction. Any objection to agreeing
6 to this section? I know of his concern.

7 Senator Long. I would just like to bring up one point.
8 I notice that this rounding of benefits -- that's a rounding
9 down, now isn't it? Rounding down to the nearest dollar
10 figure.

11 It just seems to me that if you are going to round
12 the benefits, you ought to round up 50¢ and down 50¢ rather
13 than rounding where the beneficiary loses in any event.

14 And I just want to move that that be left out. I'm
15 willing to settle for a voice vote. I just -- I personally
16 just don't go along with it.

17 Mr. Chairman. All in favor say aye. All opposed, no.

18 Senator Long. Well, I wasn't sure whether you were
19 voting for motion or not, but I was counting myself with
20 the ayes, then.

21 Mr. Chairman. I think it is. We were doing it on
22 food stamps. We're going to be suggesting it in this
23 program. And it is a savings. It does ease the Administration.
24 And I understand what you would do. You would round up or
25 round down depending on whether you were on the half side.

1 I would hope we might retain that. It is not a lot
2 of money, but it is --. Maybe we better have a record
3 vote on it or a show of hands.

4 Senator Bradley. Which vote --

5 Mr. Chairman. Why don't we call the role then. Just
6 call the role.

7 Senator Bradley. Would you state the question again.

8 Senator Long. I'm just opposed to the rounding of
9 benefits. The proposal is to round them down. In other
10 words, what the proposal is that whatever the numbers like
11 if it's -- suppose it's \$200.25, well just drop off the
12 25¢. Or if it's \$1.15, drop off the 15¢.

13 In any event, it's a rounding down and I just don't
14 like that. I personally think that if you're going to
15 round benefits at all, it ought to be on a bases where
16 the beneficiary or the people we're trying to help have
17 at least the opportunity or chance to win as well a chance
18 to loose.

19 If you're going to round benefits -- numbers, I think
20 you ought to round up from 50 as well as down 50.

21 Senator Moynihan. Down 49.

22 Senator Chafee. Mr. Chairman, I've got a suggestion.
23 As I understand it, we've got to go through this whole
24 list.

25 Mr. Chairman. Well, we've been through it about three

1 times.

2 Senator Chafee. Yes, but I mean -- I appreciate that
3 but other people may have other points in connection with
4 this. And I'd like to see how we come out before we vote
5 on this one here. If we're off target, then we couldn't do
6 it. If we're ahead of the game, then we might be able to
7 do it.

8 Mr. Chairman. Well, we could vote on it. If he loses
9 then we

10 Senator Long. We could always reconsider later, if
11 you want to.

12 Senator Danforth. Mr. Chairman, how often are these
13 changes made?

14 Ms. McMahon. Once a month. It varies by state. Some
15 states pay twice a month.

16 Senator Moynihan. While they look it up, I'll tell
17 you there's a huge range. This is the only program in the
18 charity -- in the Social Security Act in which there was
19 this mix of Federal - State. Old age insurance and things
20 like that were all Federal, and therefore there is a huge
21 range.

22 Ms. McMahon. But, sir, the average payment is \$300,
23 but that really doesn't tell you very much in terms of
24 what it is state to state.

25 Senator Danforth. -- But in the aggregate 50¢ here

1 and 50¢ there really I have --.

2 Senator Long. Well, if you're chiseling and cheating
3 the taxpayer and the citizens out there, it don't make any
4 difference to me whether you're cheating them out of 35¢ or
5 \$35, it's still not right. That's just the way it looks
6 to me.

7 And if they are entitled to a certain amount of money,
8 you ought to pay it. Now, it doesn't especially bother
9 me to, but the Administration explicitly -- if you people
10 want to do it that way, it doesn't particularly bother me.

11 They just say, well all right we will split the
12 difference. If they say -- if it's on the high side of --
13 above 50¢, round up . If it's below 50¢, round it down.
14 That doesn't bother me, but what we -- well, they say look
15 here. We picked up \$150 million dollars in all Federal
16 programs. How did we do that?

17 Well, we did it two ways. One by making them pay
18 more than they owe. And two, by giving them less than
19 they've got coming to them. So, we've come to \$150 million
20 worth of that.

21 Now, my reaction is I don't want that to be known as
22 Long Amendment. If somebody else wants it, that's all right,
23 but I don't want it. You know, I'm against that. If
24 somebody comes and complains and says well look they owed
25 me \$17.35 and they only gave me \$17.00. I want to be in the

1 position to tell my constituent I voted against that. If I
2 had my way, you would have gotten your 35¢.

3 Mr. Chairman. Well, I don't quarrel with that, but
4 I think -- the other options, I think, are even less
5 desirable. If we start looking for other places to save
6 money and you're looking at it, again, we think we've done
7 quite well in these programs keeping benefit reductions
8 very low and making adjustments in the Administration's
9 program. And in order to make -- reject some of their
10 recommendations we had to find other ways to come up with
11 what may appear to be rather minimal amounts of money.
12 This is one thing that we choose to do.

13 If we'd rather go back and find some change in the
14 program itself, we can certainly find some options that more
15 than off-set what we might loose on rounding.

16 Ms. McMahon. We have a couple

17 Mr. Chairman. Name one that --

18 Ms. McMahon. Mandatory CEWEB.

19 Mr. Chairman. Pardon.

20 Ms. McMahon. Mandatory CEWEB.

21 Senator Long. Mandatory what?

22 Ms. McMahon. Community Work Experience Program. Work
23 Fair.

24 Mr. Chairman. All right, well we didn't add that one,
25 but I know that's -- what's the other one?

1 Ms. McMahon. What else did they give up.

2 Mr. Chairman. Some would like mandatory work --

3 Ms. McMahon. Oh yes, County Energy Assistance as
4 income or the extent that it is duplicated in the AFDC
5 payment. -- of the administrative cost of the program.

6 Mr. Chairman. See what we did, in allowing we took
7 some of those recommendations and put them at the bottom
8 of the pile and that's where they stayed.

9 But, I may have to bring them back out again if we --

10 Senator Long. Well, let me just make it clear. Let
11 me just tell you as far as I personally -- as Chairman --
12 I have the highest admiration and high regard, but I
13 wouldn't for a moment hesitate to vote -- in regard to all
14 these able bodied people that we'll pay them to do something
15 rather than pay them to do nothing.

16 And I think what's wrong with your working with your --
17 with that -- what do you call it? Your CEWEB program or
18 whatever you want to call it is that you pay them the check
19 and then you try to make them do the work. I'd pay them
20 the first check to get them started, but after that I'd
21 pay them for work rather than pay them for doing nothing.
22 And it would be a far more popular program.

23 But just to be on record, I'm for it.

24 But I'm also opposed to the nickle and dime part of
25 it, so I --

1 Ms. McMahon. Senator Dole, if I may, if the Agriculture
2 Committee is considering the rounding down provision for
3 the food stamp program, I'm sure that state administrators
4 will be interested in seeing the same thing done in both
5 programs.

6 Mr. Chairman. They've already done it. Didn't do a lot
7 of things suggested.

8 Senator Long. Well, I think it's clear. I'm opposed
9 to it. Just count me among those who voted against it.
10 Let's go on to the next thing.

11 Mr. Chairman. Well, then if we --could we vote on the
12 entire AFDC package with the exceptions that we've noted
13 before? Does anybody want a record vote on that?

14 Senator Boren. Has the --

15 Mr. Chairman. Right. We're trying to do the same
16 thing keeping in mind what Senator Byrd had to say that he
17 thinks -- feels very strongly that there ought to be --
18 they ought to tighten up the --, is that correct,
19 Senator Byrd?

20 Senator Byrd. I think we certainly ought to tighten
21 up. There are 19 states, for example, that are below
22 three percent as was brought out this morning. Most of
23 New York State is below three percent, the second largest
24 state in the union population wise. If a state the size
25 of New York can get below three percent, certainly the

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1 other states can. Some of the smaller states which should
2 have the least problem, have the highest margin of error.
3 One up to 18 percent. Up to 12 percent, and 15 percent.

4 Mr. Chairman. That was in the Medicaid Program.

5 Senator Byrd. Right.

6 Mr. Chairman. Which has a better track record. This,
7 I think, the average is about eight.

8 Ms. McMahon. Yes, sir.

9 Senator Boren. I'm certainly not opposed to this.
10 I'm very much in sympathy with this tightening up. I don't
11 want us to set it so high that it become unrealistic and
12 then we don't -- in other words, if it's at a reasonable
13 rate we'll get real enforcement of it. If it gets over
14 to the point where fewer, if any, of the states can met
15 it, why then they're more apt to not really enforce it on
16 the states.

17 So, I would just say we could have a look at it just
18 to try to make sure it was at a reasonable obtainable level
19 that we could -- would be a real incentive to --

20 Mr. Chairman. We've directed the staff to work with
21 the committee staff.

22 Senator Boren. I wonder, Mr. Chairman, on another
23 matter. I don't think this is controversial. You recall
24 that the Committee previously adopted the right of states
25 to have demonstration projects on the WIN program. Or where

1 we gave them greater flexibility to establish their own
2 WIN programs. And I'm told, at least in our state, the
3 results so far -- Oklahoma was one of those states that
4 opted, have been very good. We have had some substantial
5 savings. We have had much higher rate of taking people
6 off the -- off the roles and getting them into employment
7 than we'd had previously.

8 I'm also told that there are some other states that
9 would like to have the opportunity to also have these kinds
10 of programs, but we have foreclosed them, I believe, from --
11 I think the date has expired by which they could enter.

12 Ms. McMahon. Yes, sir.

13 Senator Boren. I wonder if there would be objection.
14 It would be seem to be a cost saving potential, at least,
15 to reopen the period for another couple of years under which
16 states could opt into that program.

17 I've heard maybe New York, I think, and others have
18 talked about wanting to go into it and now have been
19 foreclosed.

20 Ms. McMahon. If the Congress chooses to fund the WIN
21 Program, we would have no problem with the WIN Administration
22 being extended.

23 Senator Boren. Well, I would -- if there isn't any
24 objection, Mr. Chairman, I would like to move that we do extend
25 the demonstration program allowing states to opt into such

1 demonstration programs for two years. There's no cost
2 attached to it and there is potential savings. It just really
3 gives the states greater flexibility.

4 Mr. Chairman. It would be contingent on funding the
5 program.

6 Senator Boren. Contingent on funding, of course.
7 Right.

8 Mr. Chairman. Any objection to that?

9 Ms. McMahon. No, sir.

10 Mr. Chairman. Okay.

11 Senator Moynihan. Could we have a role call, if he
12 didn't mind. I'm sorry to have to --

13 Mr. Chairman. All right, then we'll vote on the
14 AFDC Section and the Clerk will call the role. And I might
15 say in addition to the reservations made, Senator Durenberger
16 has reserved the right on one of these areas that he may
17 want to raise at a later time.

18 Senator Moynihan. On the Medicaid eligibility option.
19 That's what you mentioned.

20 Mr. Chairman. Yes, it's number ten. I think
21 Senator Durenberger had in mind the one that has already
22 been reduced substantially.

23 The Clerk. Mr. Packwood?

24 (No response.)

25 The Clerk. Mr. Roth?

Senator Roth. Aye.

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1 The Clerk. Mr. Danforth?
2 Senator Danforth. Aye.
3 The Clerk. Mr. Chafee?
4 Senator Chafee. Aye.
5 The Clerk. Mr. Heinz?
6 Senator Heinz. Aye.
7 The Clerk. Mr. Wallop?
8 Senator Wallop. Aye.
9 The Clerk. Mr. Durenberger?
10 The Clerk. Mr. Armstrong?
11 Senator Armstrong. Aye.
12 The Clerk. Mr. Symms?
13 Senator Symms. Aye.
14 The Clerk. Mr. Grassley?
15 Senator Grassley. Aye.
16 The Clerk. Mr. Long?
17 Senator Long. Aye.
18 The Clerk. Mr. Byrd?
19 Senator Byrd. Aye.
20 The Clerk. Mr. Bentsen?
21 Senator Bentsen. Aye.
22 The Clerk. Mr. Matsunaga?
23 The Clerk. Mr. Moynihan?
24 Senator Moynihan. Nay
25 The Clerk. Mr. Baucus?

1 The Clerk. Mr. Boren?

2 Senator Boren. Aye.

3 The Clerk. Mr. Bradley?

4 Senator Bradley. Nay.

5 The Clerk. Mr. Mitchell?

6 Senator Mitchell. Nay.

7 The Clerk. Mr. Chairman?

8 Mr. Chairman. Aye.

9 Mr. Chairman. Well, first I think Senator Roth what
10 I -- The ayes are 14, the nays are three. So that that
11 is generally agreed to.

12 Senator Danforth. Mr. Chairman, can we do the next
13 one. The SSI?

14 Mr. Chairman. Well, it depends on some of the little
15 things that are still floating around, but we're doing
16 pretty well.

17 Senator Danforth. Do we have --

18 Mr. Lighthizer. We haven't done SSI or unemployment
19 compensation, the last two parts of this section. But if
20 we do those, we should be pretty close to the first year.

21 Mr. Chairman. Then we have child support.

22 Mr. Lighthizer. Depending on what happens with the --
23 rate. The -- rate provision is the biggest single provision
24 in AFDC or SSI. Depending on how that comes out, we'll
25 probably just make it.

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1 Mr. Chairman. On the child's CSE, there's only two
2 items there. I don't know of any -- is there any objection
3 to that section? If not, we will accept the suggestion
4 there and then we'll move on.

5 As I've indicated we've rejected the Administration's
6 Child Welfare Foster Care and Adoption Assistance Provision.
7 We've determined not to reduce the Social Services Block
8 Grant.

9 That takes us to SSI. Carolyn?

10 Ms. Weaver. The SSI Provisions are described beginning
11 on page 71 in the Blue Book. And the first two provisions
12 on the list of savings, items in SSI are the first two
13 provisions on page --. Seventy-one. Yes, it's continuing
14 on the white sheets below the child support enforcement
15 provisions. Roman numeral five. SSI, page 71 in the Blue
16 Book.

17 The first two provisions on the list are items one
18 and two in the Blue Book.

19 Senator Moynihan. Mr. Chairman, Ms. Weaver is speaking
20 and I --

21 Ms. Weaver. Yes. Items one and two relate to the
22 two provisions described for AFDC. The first one would
23 prorate the first months SSI benefit to the date of
24 application or the date of eligibility, whichever is later.

25 The second provision, like that proposed in AFDC,

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1 would round benefits to the next lower whole dollar, rather
2 than up to the next higher ten cents as under current law.

3 Item three, the coordination the Social Security and
4 the SSI cost of living adjustment is described on page 73,
5 item number six. This is designed to correct what turned
6 out to be a technical drafting error in last years
7 reconciliation provision dealing with retrospective
8 accounting.

9 Under current law, SSI benefits are based on income
10 and resources in the prior month. That will cause difficulty
11 come July when SSI recipients who also receive Social Security
12 receive an increase in their Social Security and it's not
13 immediately taken into account in their SSI benefit. One
14 or two months later, that would be reflected in a reduction
15 in their SSI payment.

16 The provision would then coordinate those two costs
17 of living adjustments so that in July and August the SSI
18 payment would immediately take into account the increase
19 in Social Security benefits.

20 Item four is to phase out of hold harmless. That's
21 described on page 74 in the Blue Book, item number seven.
22 This provision would continue the phase out of Federal
23 hold harmless payments made on behalf of certain states.
24 It was initiated in the 1982 continuing resolution.

25 Under current law, two states, Wisconsin and Hawaii,

1 are continuing to receive Federal contributions on behalf
2 of their supplementations to the SSI program. Because of
3 a provision enacted in 1976, these two states alone have
4 effectively been locked into hold harmless status,
5 continuing to receive Federal contributions whereas other
6 states, their hold harmless status phased out as the Federal
7 benefit increased over time.

8 This would simply continue phasing out the Federal
9 hold harmless payments for those two states.

10 And finally item number five, the recovery of over-
11 payments is described on page 75 in the Blue Book, item
12 number nine.

13 And that would simply authorize the Secretary to recover
14 over-payments in SSI from Social Security and Black Lung
15 Benefits. That is other benefits administered by the
16 Social Security Administration.

17 It would not alter the way they collect over-payments
18 from SSI recipients.

19 Senator Grassley. Would you explain hold harmless?

20 Ms. Weaver. Yes, two states Wisconsin and Hawaii
21 receive a Federal contribution toward their state
22 supplementation for SSI. SSI, aside from some states which
23 supplement, is a completely Federal program.

24 These two states make state supplements and because
25 of a provision enacted in 1976, they are going to permanently --

1 well, for some time continue to receive Federal subsidies.
2 And this would phase out those Federal subsidies.

3 Senator Grassley. And that's what --

4 Ms. Weaver. Yes. Virtually all of that money is
5 going to Wisconsin.

6 Senator Danforth. Carolyn, would you like to proceed
7 with the discussion of unemployment compensation?

8 Senator Chafee. Did she do number five, Carolyn?

9 Ms. Weaver. I'll do it again very quickly, okay.
10 This provision does not in any way alter the way the
11 Secretary can collect over-payments from an SSI recipient.

12 Senator Chafee. No, no five?

13 Ms. Weaver. Oh, we've dropped that from the list.

14 Senator Chafee. Oh, that's been dropped. I see.

15 Ms. Weaver. Yes. He was back.

16 Senator Danforth. Okay, if there are no questions,
17 would you like to proceed to --

18 Ms. Olson. There are two provisions in unemployment.
19 The first deals with the ex-servicemen program. Unemployment
20 for members of the armed forces. The Administration proposes
21 to close a loop hole in that program and would not make
22 eligible for unemployment benefits anyone who does not fall
23 into a group who has been honorably discharged because of
24 a service connected disability, a reduction in force,
25 de-activation of their unit, or a demobilization.

ab

1 Senator Bradley. Mr. Chairman, I would strongly
2 oppose this. I think what we did last year was a big
3 mistake. And I think that -- I don't know if in your own
4 state if you've come across it. I've come across it in
5 my state at least 15 times in the last six months of the
6 serviceman who chooses not to re-enlist for a variety of
7 personal reasons. Maybe he wants to come home from Japan
8 or Germany or wherever. He comes home and he finds the
9 economy in a recession.

10 And unlike anyone else, virtually, in the economy he
11 can't get unemployment compensation because of what we did
12 last year.

13 And what this amendment does is even make it more
14 difficult for an honorably discharged member of the armed
15 services to get unemployment compensation.

16 I think that that is unfair. I think that it is a
17 slap in the face of people who have served their country
18 honorably. If they got a dishonorable discharge, on the
19 other hand, they would be eligible for unemployment
20 compensation. It doesn't make sense.

21 I think it's a mistake that we made last year. And I
22 think we have to correct it. This only goes a step further.
23 But I would not only want to vote on this, but I would move
24 to re-instate what we had last year.

25 Senator Wallop. Mr. Chairman. Question. I just

1 wonder if there is any unemployment compensation available
2 to anybody who voluntarily relinquishes a job?

3 Ms. Olson. In most states voluntary quit is a reason
4 for not being eligible for unemployment benefits.

5 Senator Bradley. And of course, by that argument I
6 assume that you would argue that serving your country in
7 the military is just like working at the corner drugstore
8 or in a factory. I don't happen to believe that.

9 Senator Wallop. Well, it is to the extent that we
10 don't have a draft and people are not there involuntarily.

11 Senator Bradley. Well, I would disagree that there is
12 a different nature in the service. And you are simply
13 saying to the serviceman who has served his four years and
14 chooses not to re-up and he's going to be penalized
15 particularly when he comes home in a period of recession.
16 I don't think that's fair and I'll move to change it.

17 Senator Moynihan. But if I may say, I'm sure the
18 Senator from Wyoming would agree, there's more to the credit
19 of the person who has volunteered than the one that has been
20 drafted. It is -- that we should treat them as if they
21 were not -- had not been working.

22 Senator Wallop. But I don't think that's the point.
23 Nobody is treating them as though they are not a good
24 worker. He gets the same treatment that all other
25 Americans have, whatever their employment or at least most

1 other Americans have whatever their employment if they
2 voluntarily leave that employment they are not eligible
3 for benefits.

4 It's just -- it's not -- not treating them --

5 Senator Moynihan. Voluntarily leaving the armed
6 services after a period of enlistment, you can't voluntarily
7 leave the armed services. You serve a period of enlistment.

8 Senator Wallop. Well, if you're denied the ability to
9 re-up.

10 Senator Bradley. No, the reading is if the military
11 offers you the enlistment, which they'll do unless you're
12 dishonorably discharged. And you decide not to take it,
13 you can not get unemployment compensation. That means that
14 you are -- have to accept the re-up or void your right
15 to unemployment compensation as an American citizen.

16 Senator Mitchell. Well, excuse me.

17 Senator Bradley. If you said that a person who is
18 in the military who is offered a chance to re-enlist and
19 chooses not to re-enlist and comes home and then refuses
20 a job that has been offered him or voluntarily quits a job
21 in civilian sector, then fine. That's not what we're
22 saying here.

23 Then the argument is basically do you think service
24 in the military is any different kind of job in a national
25 sense than is working in a steel factory. I think it is.

ab

1 Senator Mitchell. I'd just like to express my support
2 to Ms. Chairman for the statement of Senator Bradley. It
3 is different. And the fact is we create a whole set of
4 inducements in an effort to get people into the armed services.
5 Nobody else gets the same treatment as they do. Nobody
6 gets the low pay that they do, in the first place. Nobody
7 gets the same retirement benefits that they do.

8 We as a nation have regarded service in the military
9 as a distinct different method of service throughout our
10 national history. It doesn't make any sense to say it's
11 the same thing as any other job. It isn't like any other
12 job.

13 And I think this proposal is a terrible proposal.
14 What it does, it extends an inequity. It says you now
15 have an inequitable situation, but it doesn't apply to
16 everybody, so let's be fair and apply the inequity to those
17 who are not now subject to it. It's exactly the opposite
18 direction in which we should be moving.

19 We should correct the mistake we made last year.

20 Senator Wallop. Senator, you can put whatever words
21 you choose to in my mouth, but that is distinctly not what
22 I said and I resent having that said to me in that manner.

23 Senator Mitchell. Mr. Chairman, what did I say that
24 was different from what you said?

25 Senator Boren. Mr. Chairman, we would not under this

1 provision allow benefits to those who'd been dishonorably
2 discharged would we?

3 Ms. Olson. Under current law they are not allowed
4 benefits.

5 Senator Boren. They are not allowed benefits. And
6 then I read here and it says unemployment benefits would
7 be available only for ex-servicemen discharged or released
8 under honorable conditions as a result of actual service
9 incurred and so on.

10 So, we would not -- and I wanted to correct that. We
11 would not allow payments for those dishonorably discharged.
12 How would this provision change current law?

13 Ms. Olson. It tightens it up.

14 Senator Boren. In what area?

15 Ms. Olson. In the areas of people with honorable
16 discharges who have not given -- had the opportunity to
17 re-enlist for whatever reason. And general discharges.
18 If they have a record of what they call indiscipline, but
19 it has not been serious enough for a dishonorable discharge,
20 they are given --

21 Senator Boren. Okay, now I can certainly see that that
22 would change. So that we could tighten up if they have
23 been discharged -- not given a dishonorable discharge, but
24 they have been discharged really because of unadequate
25 performance.

1 Ms. Olson. That's correct.

2 Senator Boren. But, they don't want to go as far as
3 to put a dishonorable discharge on the record because that's
4 a very -- it's not unusual circumstance at all.

5 Now, if current law also disqualifies a person if they
6 do not serve their period of enlistment, isn't that correct?
7 If they quit the service before serving their period of
8 enlistment?

9 Ms. Olson. They do not get benefits.

10 Senator Boren. They do not.

11 Senator Moynihan. We can look to you as an arbitrator
12 in this matter. Most of us have been in the armed services.
13 But when you have completed an enlistment, you have finished
14 a contract. It's a very different thing from voluntarily
15 leaving a job.

16 You undertook a period of service and you performed it
17 honorably and then you leave. I mean having performed it,
18 you conclude your service.

19 That is not what the unemployment insurance benefits
20 program intended when it said if you voluntarily quit your
21 job, then you can't march over the unemployment -- to the
22 employment service and ask for unemployment benefits.

23 And it seems to me that this would -- this Committee
24 would never wish to have treated men and women from the
25 armed services in this manner.

ab

1 And for perfectly good reasons a serviceman or a
2 service woman having honorably completed a period of enlisted
3 service or otherwise, completes it. Goes home. Finds no
4 work. Why should he or she not be eligible for unemployment
5 compensation?

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1 Senator Boren. What be the loss if we allowed -- if
2 we kept the current law applying to those who are dishonor-
3 ably discharged, those who do not fulfill their term of
4 enlistment. I do think that is a voluntary quit if they
5 do not fulfill their term of enlistment for reasons other
6 than health.

7 Ms. Olson. You would have to check with the Department
8 of Labor actuary.

9 Senator Boren. How much did we supposedly save? I've
10 run into the same thing. Where you have people who've very
11 honorably served their full term, they came back, they could
12 not get a job because of the downturn in the economy, and
13 then they were denied benefits. I have to say I don't think
14 that was our original intent, and I don't think that should
15 be done.

16 I would favor extending it to those who while honorably
17 discharged were discharged because of a record of undisci-
18 plined failure to maintain skilled proficiency. In other
19 words, I favor that as an additional disqualifying factor.
20 I favor that much of the proposal.

21 But I agree with Ms. Bradley and others, and Moynihan,
22 that I think we've gone too far when we disqualify people
23 who have fully served their term of enlistment, performed
24 well and honorably, and decide they want to return to
25 civilian life and then can't get a job. I think they're

1 being unduly penalized.

2 The Chairman. I think there's probably some area of
3 or way to accommodate concerns that have been expressed.
4 This indicates that this will exclude not only those who
5 voluntarily leave the military under honorable conditions,
6 but will also exclude those who leave the military involun-
7 tarily because of a poor record of indiscipline or failure
8 to maintain skill proficiency. That last part -- if somebody
9 does serve their full enlistment honorably, then they would
10 not be eligible, is that right?

11 Ms. Olson. That's correct because they don't chose
12 to re-enlist.

13 Senator Moynihan. Mr. Chairman, I don't want to be a
14 sea lawyer, but if I'm not mistaken when your enlistment is
15 up you're no longer in the armed service. You haven't
16 left, you're just not in.

17 The Chairman. I suggest we explore what Senator Boren
18 has suggested.

19 Senator Boren. Do we have any cost figures at all?
20 Let's suppose we change the current law and we say if a
21 person serves their term of enlistment honorably and then
22 they do not chose to re-up, they're still eliggible for
23 unemployment. How much will that cost us under current law.

24 Ms. Olson. The current law cost of program is 273
25 million. Your change I'm not sure how that would affect the

1 cost of the program.

2 Senator Boren. When we adopted that how much did we
3 suppose it would -- this Committee adopted that, and I think
4 what we thought we were adopting was penalizing those people
5 that quit before their tour was up, but it ended up broader.
6 Do we know how much we would recoup if we did adopt -- I'm
7 suggesting we modify current law by allowing unemployment
8 benefits for those who honorably fulfill the term of their
9 enlistment, so we change the current law.

10 Ms. Olson. Last year we reduced the cost of program
11 from 320 million. We would lose that savings advised by
12 the Department of Labor.

13 Senator Boren. We'd lose about 40 million by doing
14 that?

15 Ms. Olson. The entire savings of last year.

16 Senator Boren. You mean we'd lose 320 million?

17 Ms. Olson. 230 million.

18 Senator Boren. 230 million was all attributable?

19 Ms. Olson. That's correct.

20 The Chairman. I don't want to change all that. I want
21 to see if we can focus on the 30 million.

22 Senator Bradley. Mr. Chairman, you really can't have
23 it both ways here. You are either going to give servicemen
24 who are honorably discharged the same right as every other
25 American to unemployment compensation which will cost you

1 230 million, or you're not. Now, what this definition does
2 is make it more stringent or come a little way in the right
3 direction, saying some people who are honorably discharged
4 if they have the following three criteria would then be
5 eligible. But for the average serviceman it still denies him
6 the same right as everybody else has.

7 The Chairman. The Department -- Goedde.

8 Ms. Goedde. Mr. Chairman. I think it's important
9 when we look at this amendment, it is a technical amendment
10 to the changes that were made in reconciliation. The
11 rationale behind this piece of legislation was that given
12 the fact that we've a volunteer Army people should be treated
13 basically the way the private work force is treated. The
14 voluntary quit in almost all states makes people ineligible
15 for UI. What happened in reconciliation is that the way
16 the language was drafted it allowed people that had never
17 been intended to receive benefits to receive benefits. Our
18 rationale was only those people who left the military through
19 no choice of their own should receive benefits. That's
20 what this technical amendment will do.

21 Senator Moynihan. But it keeps in place the action
22 that was taken by the Congress last year --

23 Ms. Goedde. Absolutely.

24 Senator Moynihan. -- to deny benefits to servicemen
25 who are honorably discharged.

1 Ms. Goedde. Senator Bradley I think --

2 Senator Moynihan. And if we disagree whether a
3 voluntary Army makes the serviceman the same as the insur-
4 ance salesman, fine, we disagree. And that's what this
5 debate is about. I happen to think he's different. He or
6 she is in the service of the country and they should be
7 eligible for unemployment benefits.

8 Senator Mitchell. If I could just add that in every
9 other respect we do not treat them the same as everybody
10 else. We don't have an insurance salesman administration
11 like we have a Veterans Administration. We don't have an
12 administration for anybody else. In every other respect we
13 treat those who serve our nation in the armed services
14 differently. Now what we're saying the whole rationale for
15 the original proposal and, therefore, the rationale for
16 the extension is that we should treat them the same as
17 every place else. I submit that's inappropriate in this
18 area as it is in every other area.

19 Senator Moynihan. Mr. Chairman.

20 The Chairman. Senator Moynihan and then Mr. Chafee.

21 Senator Moynihan. I really have to take exception to
22 the statement of our friend from the Department of Labor
23 that persons quit the armed forces. You don't quit the
24 armed forces. People who quit the armed forces get shot.
25 When your term of enlistment is up you are no longer in the

1 armed services.

2 Mr. Chairman, I'd like to move that we restore the
3 unemployment insurance program to the status quo concerning
4 honorably discharged members of the armed services that was
5 there prior to the Reconciliation Act of 1981.

6 Mr. Bradley will move, I will second the motion.

7 Mr. Chafee. Mr. Chairman.

8 The Chairman. That's what, 320 million dollars?

9 Senator Boren. I wonder if the Senator might consider
10 modifying his amendment to this degree. If you go back to
11 the status quo ante, I think what you go back to is you
12 also allow benefits to those who voluntarily quit before
13 their term of enlistment is up. I don't think you'd want
14 to do that.

15 What you're talking about is restoring to benefits
16 those who honorably --

17 Senator Moynihan. Discharge at the end of a period of
18 enlistment.

19 Senator Boren. Who discharge their full period of
20 enlistment honorably. I wonder if you would agree to accept
21 the one recommendation they here have except to say that
22 those who had a record of indiscipline or failure to main-
23 tain skill proficiency would not be covered.

24 Senator Bradley. I think that that's a reasonable
25 modification. Still though if I may inquire, the change that

1 we're making is I think the proper direction and it
2 rectifies the error we created last year in reconciliation.

3 Senator Moynihan. Mr. Chairman, I'll accept the
4 amendment of the Senator from Oklahoma, although I will
5 have to state to you one man's record of indiscipline is
6 another man's experience on a hell ship with a bosun's
7 mate that he can't live with. I don't know why we get
8 involved in that with unemployment insurance.

9 Senator Chafee. Mr. Chairman, clearly under this
10 amendment retirees wouldn't be permitted to collect. That
11 would be an offset under the unemployment comp, wouldn't it?
12 Under the law we passed last year. So that retirement
13 clearly would offset any potential --

14 Senator Danforth. So this is adding 320 million back?
15 Ms. Olson. 230 million per year.

16 Senator Chafee. Is that last year?

17 The Chairman. That's right, but we're not doing what
18 we did last year.

19 Senator Mitchell. But if you adopt the addition to
20 it you subtract out 30 million.

21 Senator Moynihan. And this necessarily varies with
22 unemployment.

23 Senator Mitchell. That was not included last year.

24 Senator Moynihan. This goes up and down, it might be
25 heavy this year, it might not.

1 Senator Danforth. I mean everything is a matter of
2 reduction, at least to these people who served in the armed
3 service. Does anybody have any idea for how to fix that up?

4 The Chairman. That's what I want to find out I
5 think before we vote on this section. We will want more
6 specific figures from the Department of Labor, also whether
7 or not there's any separation pay and other factors that
8 might be included as appropriate offsets to any kind of a
9 program. I mean, when I got out of the Army we got 30 or
10 60 days and before we start adding money, maybe we'll find
11 some offsets in unemployment comp.

12 Senator Moynihan. Mr. Chairman, could we have a roll
13 call vote on the proposition that we'll undertake in
14 principle to do that?

15 The Chairman. Well, we haven't had roll call -- just
16 take my word for it. We'll see what we can find out while
17 we're dealing in other areas.

18 Senator Moynihan. Mr. Chairman, I'll take your word
19 for anything, but I'd kind of like a roll call. I mean, I
20 do take your word, but I'd like us to go on record.

21 The Chairman. A roll call on my word?

22 Senator Moynihan. No, sir.

23 Senator Bradley. I think, Mr. Chairman, that the
24 request is a roll call on the full restoration of unemploy-
25 ment compensation for servicemen whose term of enlistment are

1 up with the exceptions that are listed in this amendment
2 plus those that are listed in Senator Boren's, plus those
3 who are already not qualified who are dishonorably discharged.

4 The Chairman. Right, I understand the request, but I
5 think before -- unless it's going to be pressed -- before I
6 would entertain that I'd like to have the other information
7 I requested.

8 Senator Moynihan. Can we have a roll call at that time?

9 The Chairman. Oh, yes, I'm not going to deny anybody
10 a roll call.

11 Senator Moynihan. Fine, I'll withdraw the request.

12 The Chairman. I'd rather not do it right now.

13 Senator Bradley. Mr. Chairman, if I could just make
14 one more point since this is something I've lived with for
15 about a year because I was hit very hard afterwards on this.
16 Either we didn't save what we said we saved in reconciliation
17 last year, or this amendment is going to cost the amount we
18 said we saved last year. However we fiddle with the other
19 aspects of a person who's ending his military service.

20 So, if we don't vote on it today, when we do vote on it
21 it's going to be the same choice.

22 The Chairman. Right.

23 Senator Matsunaga. I'd like to know why such a great
24 discrepancy between what is noted in this Blue Book on page
25 77 wherein the estimated savings under the proposed change

1 would be for fiscal year '83 - 30 million; '84 - 30 million;
2 and I am told here by the Department of Labor representative
3 it's going to be 230 million?

4 Ms. Olson. The Bradley proposal to restore old law
5 would be a cost of 230 million.

6 Senator Matsunaga. Oh, the old law, not the present
7 existing law.

8 Ms. Olson. That's correct.

9 Senator Matsunaga. I see.

10 Senator Bradley. The present existing law denies
11 unemployment benefits to any honorably discharged serviceman,
12 that's present law.

13 Senator Matsunaga. As I see it here --

14 The Chairman. We don't know what it is. That's
15 why I want to wait to find out.

16 Senator Matsunaga. Under present law according to
17 what is written here, Mr. Chairman, is that an ex-serviceman
18 separated after July 1, 1981, are required to meet the
19 following criteria for receipt of unemployment compensation.
20 That is, must have performed continuous active service for
21 365 days or more unless terminated earlier because of an
22 actual service incurred injury or disability; and, two,
23 must have been discharged or released under honorable
24 conditions; and, three, must not have resigned or voluntarily
25 left the services; and, four, must not have been released or

1 discharged for cause as defined by the Department of
2 Defense.

3 Now, isn't that the present law?

4 Senator Bradley. The difference there, Spark, is
5 they define must have left the service -- what's the third
6 criteria? Must not have resigned or voluntarily left the
7 service. If the service offers you a re-enlistment and you
8 say no, for the purposes of the Reconciliation Act of last
9 year you voluntarily left the service and are ineligible.

10 The Chairman. Well, we'll have the full information
11 plus the other information you asked for. And we'll address
12 that's the last section of the unemployment Section 6.
13 We'll address that the first thing then on Tuesday.

14 I wonder if we might proceed to vote on Section 5, SSI.

15 Senator Boren. Mr. Chairman, on the unemployment, if
16 I could just raise one very minor point. I think under the
17 proposals made we had the same rounding down proposal, is
18 that correct? Because of the nature of the unemployment
19 program, we've always been very careful about federal
20 mandates. As you recall everything we have always done has
21 been to say the federal government will not match such and
22 such funding unless the states take certain action within a
23 certain period of time. We've usually given them two years
24 because some legislatures only meet every other year or
25 other problems.

1 I wonder if we should not word that in the same
2 manner. I realize it is a very tiny, technical point, but
3 I think to maintain philosophical consistency with the rest
4 of the program that we're best to say that the federal
5 government will not match such funds after a two-year period
6 that are not rounded down by state action. That way we
7 do not get into a question of a federal mandate.

8 The Chairman. Is there any problem with that?

9 Ms. Olson. I believe that will reduce the savings.

10 The Chairman. I'm sure it will.

11 Ms. Olson. Labor will verify.

12 Senator Boren. Probably would for a year or so.

13 Ms. Olson. Yes.

14 Senator Boren. I don't know how much we're dealing
15 with. What is the total amount we're dealing with?

16 Ms. Olson. Six million in '83; 33 in '84; and 30 in '85.

17 Senator Boren. Well, we might lose 33 million for a
18 year. I think it'd be a small matter.

19 The Chairman. Let's check it out.

20 Senator Boren. Mistakes have been very concerned about.
21 That is a philosophical area.

22 Senator Chafee. Mr. Chairman, I have one other question
23 on the unemployment comp and the military. Is the sugges-
24 tion that you voluntarily join the military and that at
25 the end of 30 days for some reason you are discharged. Let's

1 say physical reasons at some point. Now, under the
2 proposal of the Senator from New Jersey would the person then
3 be entitled to collect unemployment comp for six months?

4 Senator Bradley. According to the modification of
5 the Senator from Oklahoma through the Senator from New York's
6 suggestion, if the person enlisted but was dismissed for
7 physical reason, health reason, then yes he would be eligible
8 for unemployment compensation even though he didn't complete
9 his term of enlistment.

10 Senator Chafee. So he comes out way better than if
11 he had been in private industry. In other words, there's
12 nothing about quarters or anything like that. He gets
13 unemployment comp for the 26 weeks plus the 13 weeks now
14 after -- 39 weeks after haveing served 30 days or less.

15 Senator Bradley. Is he also eligible for disability
16 pay and workman's compensation?

17 Senator Chafee. No, he wouldn't necessarily be
18 eligible.

19 Senator Bradley. It balances out.

20 Senator Chafee. Well, if he was injured in the service
21 clearly he'd be eligible for all kind of service benefits.

22 Senator Moynihan. But the former Secretary of the
23 Navy surely knows that enlistments provide I believe it's a
24 60 day period in which the service that accepted you can
25 reject you. That imposes a certain responsibility on the

1 government. In good faith the man or woman volunteered,
2 then suddenly sorry, here we don't want you. It's medical.

3 The Chairman. You have a question.

4 Senator Byrd. I just thought it might be well to
5 consider too that many of these individuals have had a
6 front-end bonus for enlisting, been given 5,000 dollars just
7 to sign on the dotted line and enlist. Now, they've gotten
8 a special, extra consideration there over and above what
9 anybody else would get. That seems to me that ought to be
10 taken into consideration when one considers whether they
11 should get unemployment compensation.

12 The Chairman. That's a good point. I hope you'll have
13 all that information available then on Monday. We can
14 have a look at it.

15 Is there a request for record vote on the SSI section?

16 Clerk, will call the roll.

17 The Clerk. Senator Packwood?

18 Senator Packwood. Aye.

19 The Clerk. Senator Roth?

20 Senator Roth. Aye.

21 The Clerk. Senator Danforth?

22 Senator Danforth. Aye.

23 The Clerk. Senator Chafee?

24 Senator Chafee. Aye.

25 The Clerk. Senator Heinz?

1 Senator Heinz. Aye.
2 The Clerk. Senator Wallop?
3 Senator Wallop. Aye.
4 The Clerk. Senator Durenberger?
5 Senator Durenberger. Aye.
6 The Clerk. Senator Armstrong.
7 Senator Armstrong. Aye.
8 The Clerk. Senator Symms?
9 Senator Symms. Aye.
10 The Clerk. Senator Grassley?
11 Senator Grassley. Aye.
12 The Clerk. Senator Long?
13 Senator Long. Aye.
14 The Clerk. Senator Byrd?
15 Senator Byrd. Aye.
16 The Clerk. Senator Bentsen?
17 Senator Bentsen. Aye.
18 The Clerk. Senator Matsunaga?
19 Senator Matsunaga. Aye.
20 The Clerk. Senator Moynihan?
21 Senator Moynihan. Aye.
22 The Clerk. Senator Baucus?
23 Senator Baucus. Aye.
24 The Clerk. Senator Boren?
25 Senator Boren. Aye.

1 The Clerk. Senator Bradley?

2 Senator Bradley. Aye.

3 The Clerk. Senator Mitchell?

4 Senator Mitchell. Aye.

5 The Chairman. That section is adopted. Again, we hope
6 fairly final, but if somebody finds something of urgency --
7 that will lead us with Section 6. Everything else with the
8 exceptions that have been noted in the different sections
9 have been completed with the exception of two items under
10 unemployment compensation.

11 Senator Moynihan. Mr. Chairman, we were going to have
12 a roll call vote on the AFDC program if we could.

13 The Chairman. We did.

14 Senator Moynihan. We did?

15 The Chairman. We did. We lost.

16 Senator Moynihan. We lost?

17 The Chairman. Close. I want to thank the staff and
18 members.

19 Senator Durenberger. Mr. Chairman?

20 The Chairman. Yes, Senator Bradley.

21 Senator Durenberger. Are you about to adjourn the meeting?

22 I had two points I'd like to make relative to AFDC if I may.

23 The Chairman. Go ahead.

24 Senator Durenberger. I apologize to my colleagues for
25 being absent for an hour, but I was chairing a hearing and

1 I'm the chairman of the subcommittee and the only member
2 in attendance.

3 The two subjects that I would have raised had I been
4 here.

5 Senator Moynihan. Could we have order, Mr. Chairman?

6 Senator Durenberger. One relates to the proposal by
7 the Senator from Pennsylvania who's not here today and to
8 which I understand the Senator from New York has already
9 spoken. I understand that there are some questions that
10 are going to be resolved on that, but I wanted to make it
11 clear that on behalf of the Senator from Pennsylvania and
12 on my own behalf had I been here I would have suggested
13 from our side that that was an issue that merited the
14 attention of this committee and merited adoption if you can
15 get the right answers to whatever questions were raised.

16 The Chairman. I think we're in the process of doing
17 that.

18 Senator Moynihan. Well, I think the Senator and I
19 hope he can join and see if we can find those right answers.
20 I mean, we're just getting some facts but I think there's
21 general agreement.

22 Senator Durenberger. Thank you. The second point,
23 Mr. Chairman, is with regard to the item that relates under
24 AFDC again -- relates to proration on shelter and utilities.
25 I want to begin by complimenting the staff on their

1 sensitivity to the real time in which we're dealing with
2 AFDC issues. I think the sensitive way that they handled
3 some of the Administrations work fare recommendations in
4 a world where there isn't any work is to their credit.

5 I just wanted to suggest and maybe it's a matter of
6 my own clarification more than anything else, but when we
7 look at proration we have to move sort of into the real
8 world in which first as the Senator from New York pointed
9 out to us earlier a third of the children in this country
10 are being born into AFDC homes. That more and more of those
11 homes are becoming extended families. That has been tradi-
12 tionally true of black and language minorities and I think
13 it's probably even truer today of a lot of people in our
14 society that we're reaching out to a broader family.

15 My concern with the approach here comes from the fact
16 that a lot of state welfare directors think that is a
17 good idea. To in effect spread the cost, but a lot of
18 states are very, very strapped to raise the monies necessary
19 to provide the so-called welfare services.

20 My concern is that we don't count people who can't
21 contribute to the shelter and utilities in that home. I
22 was going to suggest that the proration option apply only
23 when the non-AFDC individuals had income above the state's
24 standard of need. Now, that might be too high a figure,
25 but I would like to at least have us look and see if there

1 isnt' some standard that might be common to people that
2 would demonstrate something more than a nominal income on
3 the part of the adult members of this larger family in the
4 household that we could use to qualify the optional
5 proration.

6 The Chairman. I did note and did reserve the Senator
7 from Minnesota's interest in that and right to raise it at
8 a later time, and we will see if we can't find some way to
9 satisfy the concern expressed.

10 Senator Moynihan. Thank you very much.

11 Senator Bradley. Mr. Chairman, I wanted to raise
12 one issue that I've discussed with you and I also discussed
13 with Senator Long. It pertains only to my state and it has
14 to do with the method of collection for a local tax on
15 utility property. The state legislature acted and said that
16 this tax would be collected at a state level. When it was
17 collected at a state level, this disallowed it from the
18 local effort purposes of general revenue sharing and resulted
19 in an allotment of the general revenue sharing funds within
20 the state.

21 What I would propose is that we simply go back to the
22 legislation that we had in the past which would have allowed
23 this tax collection to be considered local revenue.

24 The Chairman. I understand that is a technical amend-
25 ment, and if you would let us take a look at it. I don't

1 see any problem with it.

2 Senator Bradley. Sure.

3 The Chairman. I've checked it out.

4 Senator Bradley. It was drawn by the Treasury.

5 The Chairman. Right, I know of no objections but
6 I'll recheck and make certain.

7 Senator Durenberger. Would you vote me for the AFDC
8 package, Mr. Chairman, I think I was absent when the vote
9 was taken.

10 The Chairman. Again, I want to thank the members
11 and we have almost completed the spending reductions portion
12 of the package which I think is an indication that this
13 committee is prepared to meet the mandate of the budget.
14 We will starting Tuesday morning, unless something unfore-
15 seen should occur start to mark-up on the revenue side
16 which I assume may take all day Tuesday, and Wednesday,
17 and Thursday, and Friday. It may not. We may have most
18 everything worked out by then.

19 Are there any other areas of concern in the reduction
20 package? I know some may have areas.

21 Senator Bradley. So we've adopted this?

22 The Chairman. Yes, subject to -- unless they say no.

23 Senator Moynihan. Mr. Chairman, may I repeat what I
24 said earlier, that you did not have the easiest task and
25 you performed it with compassion and realism, and if we

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1 couldn't vote with you it wasn't because we didn't
2 appreciate what you did.

3 The Chairman. I appreciate that. I'm expecting your
4 vote in the revenue areas.

5 We'll stand recessed until 10:00 o'clock Tuesday morning
6 (Adjourned 3:52 p.m.)

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