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Senate

BALANCED BUDGET RECONCILIATION ACT OF 1995

The Senate continued with the consideration of the bill.

Mr. DOMENICI. Mr. President, I understand Senator KASSEBAUM is prepared to offer an amendment with reference to education. I understand we have 10 minutes on our side and they have 10 minutes on their side.

The PRESIDING OFFICER. The Senator from New Mexico is not correct in that. There is 10 minutes equally divided, 5 minutes to a side.

Mrs. KASSEBAUM addressed the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

AMENDMENT NO. 2962

(Purpose: To strike the provisions relating to loan payments from institutions, the elimination of the grace period interest subsidy, and the PLUS loan interest rate and rebate)

Mrs. KASSEBAUM. Mr. President, I send an amendment to the desk on behalf of myself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Kansas [Mrs. KASSEBAUM], for herself, Ms. SNOWE, Mr. JEFFORDS, Mr. COATS, Mr. GREGG, Mr. FRIST, Mr. DEWINE, Mr. ASHCROFT, Mr. ABRAHAM, and Mr. GORTON, proposes an amendment numbered 2962.

Mrs. KASSEBAUM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1421, beginning with line 15, strike all through page 1423, line 13.

On page 1424, beginning with line 2, strike all through page 1426 line 9.

Mrs. KASSEBAUM. Mr. President, the purpose of this amendment is to strike the provisions relating to loan payments from institutions, the elimination of the grace period interest subsidy, and the PLUS loan interest rate and rebate.

I will just briefly speak to this, Mr. President, because this has been something the Labor and Human Resources Committee has worked long and hard on. We passed the budget resolution earlier this year in the U.S. Senate. The Labor Committee, as a whole, expressed reservations at that time about the magnitude of the cuts that the resolution directed us to make in the Federal student loan programs. However, we agreed to try and meet the reconciliation instruction, and we did so.

As chairman of the Committee on Labor and Human Resources, on behalf of the majority members of this committee, we worked to get a package that met the reconciliation instruction and had the least impact on students.

Much has been said on the Senate floor about the impact on students. We consciously directed the effort so that it would not impact strongly on students. This amendment would reduce savings by about $6 billion from the original $10.8 billion that was requested from and produced by the committee. Those costs will be offset by excess savings from the entire budget package.

Mr. President, this amendment would eliminate the provision of the bill that would require students to pay for the interest on their subsidized Stafford loans in the 6 months after they leave school. This would have only applied to new borrowers, but we now eliminate that provision. It would eliminate a raise in interest rate and the interest rate cap on the PLUS parent loans and would also repeal the assessment of a participation fee on institutions of higher education.

The main difference between this amendment and the amendment offered by Senator KENNEDY, is that we leave intact provisions in the budget bill that would decrease the size of the direct loan program to a more appropriate demonstration size, until we can fully assess the merits and feasibility of direct lending. Direct lending does not affect student eligibility for Federal student loans, nor does it affect the amount of funds available for loans or the rates and fees charged to students. They do not make financial aid more affordable or more accessible.

Mr. President, I just add that there are two members—one, a member of the committee, Senator JEFFORDS from Vermont, and the other is Senator SNOWE from Maine—who have felt strongly from the very beginning that we simply should not cut into the education funds as much as the reconciliation request required. They have fought long and hard.

I will yield what time I have remaining to Senator JEFFORDS and Senator SNOWE but I want to point out that a majority of the committee is cosponsoring this amendment. We are all united behind this amendment, and it has been a dedicated effort on the part of the committee majority members.

I yield the floor to the Senator from Vermont.

The PRESIDING OFFICER. The Senator from Vermont has 1 minute, 21 seconds.

Mr. JEFFORDS. Mr. President, let me briefly remind everybody that a while back, when we were dealing with the budget resolution, 67 of us voted not to cut more than $4 billion out of higher education. This amendment would bring this level closer to where we in the Senate voted earlier this year to be—a $5 billion cut from the $10.8 billion. I remind my colleagues of that. I hate to see anybody be inconsistent with their voting, and since 67 voted for something a little more draconian than this, I hope those Senators will stay with us on this amendment.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

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I will also say, while I believe that we should have direct lending stay in as it creates great competition for the programs, and am in favor of having a rate higher than 20 percent that is in the bill now, I could not go with the Democratic amendment because it essentially opens up direct lending fully. I will therefore be voting against the Kennedy amendment. But I will be voting in favor, obviously, of the Kassebaum–Snowe-Jeffords amendment.

Our amendment restores the 6-month grace period, eliminates the .85 percent institution fee, and lowers the interest rate on PLUS loans. Reducing the labor committee's instruction from $10.85 billion over 7 years to $5 billion.

Let me lay aside the issue of reducing education cuts for one quick moment and explain why this amendment is so important.

The amendment offered by my democratic colleagues restored direct lending to current law—or a transition to 100 percent. I simply could not support such a provision.

I have always been a supporter of testing the direct lending program and am on record as opposing the labor committee's bill to limit it to 20 percent. Twenty percent in my view is too small, it cuts out schools that currently participate in the program—that to me is wrong.

However, as I stated during debate of the 1993 reconciliation, I believe in a slow, implementation of direct lending. It should be undertaken thoughtfully and carefully. The amendment offered by my democratic colleagues is tantamount to a phase-in of direct lending. A phase-in suggests something very different than a thoughtful analysis of the two programs. My fear is that we have already made the decision to go full force without really looking at the advisability of such a move. It is like saying ''ready, fire, and then aim.''

For this reason I support a firm cap on direct lending. That cap, in my mind should be set at a point which protects the schools that are current participants and allows some room for growth. I suggest that number be set between 30–40 percent.

Mr. President, that is not the amendment we are currently considering. I offered that suggestion to my colleagues as a bipartisan approach. Unfortunately, that amendment coupled with billions of dollars in additional student aid, was rejected by the democrats and interestingly also by groups purporting to represent higher education. In particular the council on education.

I am truly disheartened that today we may have lost an opportunity to demonstrate to this Congress, the administration and the people of this country that education is not a partisan issue. Unfortunately, we gave up the chance to show that politics takes a back seat to sound policy.

I wish we could have put differences aside and discussed the real issue—reducing the labor committee's instruction and restore funding for education.

Certainly, we must balance the budget but we must cut expenditure not investment. That is what this amendment does. It strikes the .85 percent institution fee, restores the 6-month grace period, and eliminates the increase in the PLUS interest rate. Support for this amendment will provide savings to parents, students, and institutions.

Eliminating the interest subsidy during the 6-month grace period could increase the debt of an undergraduate who borrows the maximum $23,000 by almost $1,000, resulting in additional payments of nearly $1,400 over the life of the loan. For a graduate student who borrows the maximum $65,500, the result would be $2,700 in additional debt and almost $4,000 in additional payments.

Raising the interest rate and the interest rate cap on PLUS loans would increase the total payments of parents who borrow $20,000 for their children's education by $1,300.

It simply doesn't pay to cut education.

Consider the following: More highly educated workers not only earn more, but they work and pay taxes longer then less educated workers.

Between 1973 and 1993, median family income dropped by over 20 percent for families headed by a person with a high school diploma or less; but it held steady for those families headed by someone with 4 years of college; and increased for families head by someone with 5 years of college or more. (Mortenson, June 1995)

We need to encourage our young people to pursue higher education both to keep us competitive and to help balance the budget.

Higher education funds cannot be cut any further.

Unfortunately, the opportunity for individuals to go on to postsecondary education is getting slimmer and slimmer. Pell grant awards have not kept pace with college costs. Students have had to increase borrowing in order to make up the difference.

In 1985–86, the actual maximum Pell grant of $2,100 paid 58 percent of the total annual cost of attendance for a 4-year public institution $3,637. In 1993–94, the maximum Pell grant of $2,300 paid only 36 percent of the total cost, $6,454.

Because Federal grant programs have grown much more slowly than the cost of attending college, loans now, 1994–95 account for 56 percent of all student aid, up from 49 percent in 1985–96.

Borrowing has skyrocketed in recent years to such an extent that the amount borrowed through the FFEL program from 1990 to 1995 is greater than the total amount borrowed from its inception in 1965 through 1989.

With such statistics it is no wonder that polls show more and more students and families deciding that college is simply out of their reach. In fact, close to 20 percent of students consider leaving school because of debt. Considering the impact on our economy and the future earning potential of individuals with a postsecondary degree, this statistic is most disheartening.

I urge my colleagues to support this amendment and tell the nation that the issue of education spending is a bipartisan issue.

I see that the Senator from Maine has arrived. I am happy to yield to her.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I have 5 minutes, as I understand it. I will speak for 2 minutes and then yield 2½ minutes to the Senator from Illinois.

Mr. President, this is, first of all, an extraordinary moment because it is an initial victory for the students of this country and their parents that our Republican friends are hearing their message about the unfair, unwise, unjustified additional burden on working families. So that is the good news.

The bad news is that what Senator KASSEBAUM's amendment will effectively do is to say to the 1,400 schools that now have direct lending that half of them are out. Half of them are out. There is no suggestion about how you are going to cut those out.

Under our amendment, we are leaving the choice to the schools, to the colleges. It is so interesting that our Republican friends want to close the option for local control out. We leave it up to the schools. If they want to get in, they can—maximum choice—and we leave it up to the schools to have competition between the direct loan program and the guaranteed loan program.

Under the amendment of the Republicans, they will be preserving the $77 billion that will flow through the guarantee agencies and guarantee $5 million in profits. That is not competition. Where is the voice for competition among the Republicans? Where is the description about what colleges are going to be in and what colleges are going out?

The amendment that has been introduced by myself and Senator SIMON goes back to what was agreed to in terms of direct loans in 1993. We permit the colleges that want to get in, and we establish a ceiling. That was bipartisan. Someone tell me what happened in the 1994 election that was to say that we are going to jiggle the system and force the students into the guaranty system.

I yield to the Senator from Illinois.

Mr. SIMON. Mr. President, I agree this is a step forward. But it eliminates—cuts down to 20 percent direct lending. This is, frankly, a brazen kind of pandering to the banks and the guaranty agencies. There is not a college or university in this Nation that has a direct lending program that does not want to keep it. And as our friend and former colleague, DAVE DURENBERGER, said, ''This is not free enterprise, the

old system, this is free lunch for the guaranty agencies and the banks.'' We write into the law their profit.

In terms of the taxpayer, we wrote the budget resolution so that you would count the administrative cost for direct lending but not for the guaranty student program. CBO says, under current law, that leaving this 20 percent, as the Kassebaum amendment does, will cost the Nation $4.64 billion. All colleges and universities, again, who are in the program like it. It saves a huge amount of paperwork. Students like it, parents like it, taxpayers like it.

The Kennedy amendment is budget neutral. We do not add to the deficit. Why are we doing something that colleges like, students like, and taxpayers benefit from? We are doing it for one reason and one reason only: To benefit the banks and the guaranty agencies.

If we want to call this a bank assistance bill—and they have record-breaking profits right now—we ought to do that. If we want to call this an assistance to guaranty agencies, we ought to do that; but if we want to call it an assistance to students bill, then we ought to vote for the Kennedy amendment. Let me just point out that this idea came from Congressman TOM PETRI, a Republican from Wisconsin. DAVE DURENBERGER, Republican from Minnesota, was the chief cosponsor of this.

This should not be a partisan thing. I hope Members on both sides will vote for the Kennedy-Simon amendment. It makes sense for everyone. I just appeal to you on behalf of America's students.

Mr. KENNEDY. Do I have 30 seconds?

The PRESIDING OFFICER (Mr. THOMPSON). Ten seconds.

Mr. KENNEDY. Mr. President, this is a clear attempt to strike one of the initiatives of President Clinton—eliminate National Service, eliminate Goals 2000, eliminate direct lending for education.

Our Republican friends cannot stand a good idea when they see one.

The PRESIDING OFFICER. All time under the amendment has expired.

Mr. DOMENICI. Mr. President, I ask unanimous consent to have printed in the RECORD a letter from the Congressional Budget Office dated October 26 saying there has been no scorekeeping activities that try to prejudice one of the programs versus another; that is, that guaranteed one versus another.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, October 26, 1995.

Hon. PETE V. DOMENICI,
Chairman, Committee on the Budget, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: In your letter of September 5, 1995, you asked the Congressional Budget Office (CBO) to respond to several questions regarding the Credit Reform Act and section 207 of the 1966 budget resolution related to the treatment of administrative expenses in the student loan programs. Attached are CBO's responses to your questions.

If you wish further details, we will be pleased to provide them. The CBO staff contact is Deborah Kalcevic.

Sincerely,

JUNE E. O'NEILL,
Director.

Attachment.

RESPONSES TO QUESTIONS FROM CHAIRMAN DOMENICI

The Credit Reform Act of 1990 provided that the federal budget would record the cost of direct loans and guaranteed loans on a subsidy basis rather than a cash basis. The act defined the subsidy cost of a loan to equal the present discounted value of all loan disbursements, repayments, default costs, interest subsidies, and other payments associated with the loan, excluding federal administrative costs. Federal administrative costs of loan programs continued to be accorded a cash-accounting treatment. Estimates of proposals affecting student loans made from 1992 through early 1995 used the accounting rules established in the Credit Reform Act.

The budget resolution for fiscal year 1996, adopted in June 1995, specified that the direct administrative costs of direct student loans should be included in the subsidy estimates of that program for purposes of Congressional scorekeeping. Since June, for estimating legislation under the 1996 budget resolution, the Congressional Budget Office (CBO) has used this alternative definition of subsidy costs. In addition, changes in economic and technical estimating assumptions complicate the comparison of estimates made at different times. The following questions and answers explore the implications of the change in accounting for direct student loans.

Question 1: The President proposed, and signed into law in 1993, the Federal Direct Student Loan Program to replace the guaranteed lending program. What was the time frame adopted for the phase-in of that program when it was initially enacted and what savings estimate was provided by CBO?

Answer: The President's fiscal 1994 budget proposed expanding the direct student loan program from a pilot program (which was about 4 percent of loan volume) to a program that would provide 100 percent of all student loans by the 1997–1998 academic year. As part of the request, the President proposed to lower interest rates to borrowers as of July 1997, substantially increase the annual capped entitlement levels for direct loan administrative costs, and subsidize schools for loan origination. The budget proposed no changes in the guaranteed loan program except to phase it out. CBO estimated that the proposal would save $4.3 billion over the 1994–1998 period. These estimates were completed using the CBO February 1993 baseline economic and technical assumptions. The President's proposal became the policy assumed in that year's budget resolution.

The legislation passed by the Congress differed significantly from the policies assumed in the budget resolution. The bill met the requirement to save $4.3 billion by limiting the volume in the direct lending program to 60 percent of the total and substantially cutting subsidies in the guaranteed loan program. Specifically, direct loans were to represent 5 percent of total volume for academic year 1994–1995, 40 percent for 1995–1996, 50 percent for 1996–1997 and 1997–1998, and 60 percent for 1998–1999. The legislation also provided that the ceiling could be exceeded if demand required it.

Question 2: In his FY96 budget, the President proposed an acceleration of that plan so that all student loans would be provided directly from the government no later than July 1, 1997. What ''additional'' savings did CBO estimate for the accelerated phase-in under the Credit Reform Act?

Answer: The President's fiscal year 1996 budget request included a proposal to expand the direct student loan program to cover 100 percent of loan volume by July 1997. This proposed change was estimated to save $4.1 billion from the CBO baseline over the 1996–2002 period. That baseline incorporated CBO's February 1995 economic and technical assumptions and the direct loan phase-in schedule provided under current law. This baseline reflected the rules that are currently in law for estimating the cost of credit programs.

The 1996 budget resolution specified that the direct administrative costs of direct student loans should be included in the subsidy estimates for that program for purposes of Congressional scorekeeping. This change conformed the treatment of the administrative costs of direct student loans with that for guaranteed student loans. For purposes of Congressional budget scorekeeping, the change overrides the Credit Reform Act, which requires that the federal administrative costs for direct loan programs be accorded a cash-accounting treatment.

For estimating legislation under the 1996 budget resolution, CBO modified its baseline for direct student loans to include in the subsidy calculations the present value of direct federal administrative costs, including the loans' servicing costs. This change means that direct loans issued in a given year have their administrative costs calculated over the life of the loan portfolio, with adjustments for the time value of the funds. Therefore, the subsidy costs of any year's direct loans will include the discounted future administrative costs of servicing loans which may be in repayment (or collection) for as long as 25 to 30 years. The inclusion of these administrative costs in the subsidy calculations for direct loans increases the subsidy rates for these loans by about 7 percentage points. Consequently, the resolution baseline for student loans is higher than the current CBO baseline. Under the assumptions of the budget resolution baseline, the President's 100 percent direct lending proposal would save $115 million over the 1996–2002 period.

Question 3: What would be the long term costs, under scoring rules in effect prior to the 1995 budget resolution, for the above proposal? How would those savings be affected over the life of the loan? How would those costs be compared with the same volume of loans made under the guaranteed program?

Answer: The response to the first part of this question is addressed in the previous answer. Compared to the CBO baseline, the President's 1996 budget proposal was estimated to save $4.1 billion over the next seven years. In order to provide an estimate of a proposal to return to 100 percent guaranteed lending by July 1997 under either the CBO or the resolution baseline, we would need more detail than has been provided on how the program would be restructured.

Question 4: Did the credit reform amendment adopted as part of the budget resolution direct the Congressional Budget Office to exclude any costs for guaranteed loans?

Answer: This year's budget resolution addressed only the budgetary treatment of the administrative costs of direct student loans. By defining the direct administrative costs of direct loans and requiring these costs be calculated over the life of the loan portfolio, the resolution allowed for the costs of direct and guaranteed loans to be evaluated on a similar basis. Thus, all of the program costs for both programs are included in the resolution baseline and are accounted for in the same way, whether they are calculated on

the basis of subsidy or cash-based accounting.

Question 5: Are there any expenses of direct or guaranteed loans that are currently excluded from the government subsidy costs that would be more appropriately be included in that subsidy? If so, what are they and why have they been excluded from the subsidy cost? For example, some have argued that the credit reform amendment did not include the administrative cost allowance which is paid to guarantee agencies.

Answer: Indirect administrative costs—those not directly tied to loan servicing and collection—are included in the budget on a cash basis for both programs. Some have asked whether these costs would be more appropriately included in the loan subsidy calculations. Although it might be appropriate to include some or all of these costs in the subsidy calculation, as a practical matter it is not straightforward to determine which costs to account for in this manner. For the most part the costs of government oversight, regulation writing, Pell grant certification, and other similar expenditures are personnel costs of the Department of Education or contracted services. In addition, many of the costs, such as program oversight, are not tied to a single loan portfolio but affect many portfolios and both programs. Allocating these costs to specific portfolios and programs for specific fiscal years would be difficult.

The Omnibus Budget Reconciliation Act of 1993 (OBRA–93) eliminated administrative cost allowance (ACA) payments to guaranty agencies. Until that time, the volume-based payments were always included in the subsidy costs of guaranteed student loans. However, OBRA–93 gave the Secretary of Education authority to make such payments out of the $2.5 billion capped entitlement fund for the direct loan program. Any expenditures from this fund would be accounted for on a cash basis. If the Secretary chose not allocate any funds for this purpose, then there would be no payments to guaranty agencies.

As part of its current services budget estimates, the Department of Education announced plans to use funds available under the capped entitlement to pay administrative cost allowances to guaranty agencies at one percent of new loan volume for the next five years. Both the CBO baseline and the budget resolution baseline include these planned administrative expenses on a cash basis under the capped entitlement account at the Department's current services levels.

It makes little budgetary difference whether these payments are computed on a cash or subsidy basis. Because the payments are made at the time of loan disbursement, their estimated costs on a cash basis or subsidy basis would be essentially the same. As a result, over the 1996–2002 period the cost of the student loan programs and the budget totals would be changed only marginally by accounting for these payments on a subsidy basis.

Question 6: What possible mechanisms exist to reclassify these costs as part of the federal subsidy, to be scored on a present value basis?

Answer: The guaranty agency cost allowance could again be made an automatic government payment under the guaranteed student loan law. Including the current cash-based indirect administrative expenses for both the direct and guaranteed loans in the subsidy estimates would require amending the Credit Reform Act, but it would be difficult to estimate a wide range of federal personnel-related expenses over a 25- to 30-year period. Determining whether some types of expenditures that are now accounted for on a cash basis should be included in the subsidy calculation would require a more thorough review of the current expenditures of the Department of Education than has been conducted to date.

Question 7: Does the credit reform rule adopted as part of the budget resolution provide the proper framework to fairly assess all direct federal expenses of guaranteed and direct loans?

Answer: In general, the Credit Reform Act amendment allows direct comparisons between the costs of the guaranteed and direct loan programs.

Question 8: Some have claimed that savings associated with the Goodling proposal to repeal direct lending were a result of excluding administrative costs of guaranteed loans. What is the primary reason for the $1.5 billion in savings associated with the Goodling proposal under the new scoring rule?

Answer: On July 26, 1995, CBO prepared an estimate of the original Goodling proposal. The proposal had three components: (1) eliminate the authority for new direct student and parent loans effective in academic year 1996–1997; (2) change the annual and cumulative budget authority levels under Section 458 to reflect the elimination of indirect administrative cost anticipated for new direct loans and the termination of payments of Section 458 funds to guarantee agencies and limit the funds to $24 million annually; and (3) reestablish an administrative cost allowance (ACA) for guarantee agencies at 0.85 percent of new loan volume or 0.08 percent of outstanding volume, with an annual limitation on ACA subsides of $200 million. Assuming an enactment date of October 1995, the proposals would reduce outlays for student loans by $227 million for fiscal year 1996 and by $1.5 billion over the 1996–2002 period.

Relative to the budget resolution baseline, shifting loan volume to guaranteed loans would save $855 million over the 1996–2002 period. Administrative expenditures would be reduced by $1.97 billion over the next seven years by lowering the cap. Of this amount, $824 million reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the discretionary guaranty agency payments, and the remainder reflects the elimination of the indirect costs for the phased-out direct loan program. Reestablishing the ACA for a 100 percent guaranteed loan program would cost $1.3 billion over seven years.

Although the Goodling proposal would have eliminated most of the funds to funds a oversee the phased-out direct loan program by reducing the capped entitlement level for these funds, it did not address the level of appropriated funds that would be necessary to oversee the larger guaranteed loan program.

Question 9: Did the Goodling proposal to eliminate the direct loan program and make changes to the guaranteed program you were asked to score, address all federal administrative costs of direct and guaranteed loans? When you applied the new scoring rule, were you able to properly categorize those expenses to provide a completed fair calculation of the cost differential?

Answer: All of the cost analyses of the Goodling proposal for both the direct and guaranteed loan programs were completed using the same budgetary treatment for both programs. The Goodling proposal, however, did not address the level of discretionary appropriations necessary to oversee the larger guaranteed loan program.

Mr. SIMON. Will my colleague yield for a question?

Mr. DOMENICI. Yes.

Mr. SIMON. Under the scorekeeping in the budget resolution, you say count the administrative costs for direct lending but not for the guaranteed program, and we asked CBO, how do you score it under current law? There is a savings of $4.6 billion under direct lending.

Mr. DOMENICI. There is a statement in the letter from CBO on that issue.

Mr. SIMON. I will read it, and I thank my colleague.

Mr. DOMENICI. I want 30 seconds to say thanks to Senator KASSEBAUM and the other Senators who worked on our side. I think they have come up with a very good amendment, and I think ultimately the students across America who have been concerned will find they have done an excellent job in taking care of an overwhelming percentage of their issues.

We thank you for it.

VOTE ON ROCKEFELLER MOTION TO COMMIT

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the motion of the Senator from West Virginia. The yeas and nays have not been ordered.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The question is on the motion. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The result was announced—yeas 46, nays 53, as follows:

[Rollcall Vote No. 499 Leg.]

YEAS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Pell
Breaux	Hollings	Pryor
Bryan	Inouye	Reid
Bumpers	Johnston	Robb
Byrd	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Specter
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

NAYS—53

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Nunn
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Cohen	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

So the motion to lay on the table the motion to commit was rejected.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. NICKLES. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2950

The PRESIDING OFFICER. Under the previous order, there will now be 2 minutes of explanation equally divided on the Abraham amendment.

Mr. BYRD. Mr. President, may we have order in the Chamber?

The PRESIDING OFFICER. The Chamber will be in order.

The Senator from Michigan.

Mr. ABRAHAM. Mr. President, the next amendment before us is very simple.

Mr. BYRD. Mr. President, the remarks do not mean anything if we cannot hear them. May we have order?

The PRESIDING OFFICER. The Chamber will be in order.

Mr. BYRD. Mr. President, I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I thank you, Mr. President.

The next amendment I will offer is pretty straightforward. It basically creates a mechanism by which the Medicare beneficiaries can be rewarded for assisting us in ferreting out the waste, the fraud, and abuse in the Medicare program.

Under the amendment, the Secretary of HHS has the responsibility of setting up two programs—one program that in effect is a whistle-blower program which would provide bonuses to Medicare beneficiaries who will identify Medicare fraud and abuse. The other program would be designed to provide bonuses to Medicare beneficiaries who identify waste, and to streamline and make more efficient and less costly the Medicare system.

Mr. President, I think this will help us to achieve cost savings in Medicare while at the same time providing benefits to Medicare beneficiaries who assist us in that effort.

I urge its adoption.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, I yield 1 minute to Senator HARKIN.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Thank you, Mr. President. I thank the Senator from Nebraska for yielding.

As I said, I support the Abraham amendment. It is not a bad amendment. It is a good amendment. There is nothing wrong with it. I would just point out it is sort of voluntary on the Secretary's part. It does not mandate that they have to do this. It says the Secretary may set these up. That is fine, as far as it goes. I would just say that probably later on today or tomorrow, the amendment that I had offered to the Abraham amendment last night will be coming up for a vote, which provides for some tough measures. We will talk about that later. This amendment is a good amendment. I intend to support it. It is in keeping with trying to give the Secretary more power to cut down on waste, fraud, and abuse.

So it is a good amendment. We will certainly support it.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have not been ordered.

Mr. DOMENICI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment of the Senator from Michigan. On this question, the yeas and nays have been ordered, and the clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 500 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone

So, the amendment (No. 2950) was agreed to.

Mr. DOMENICI. I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BRADLEY MOTION TO COMMIT

Mr. EXON. Mr. President, I understand that the Bradley motion is next. I would appreciate, if possible, the Chair recognizing the Senator from New Jersey for the purpose of a 1-minute statement.

The PRESIDING OFFICER. The Senator from New Jersey.

Mr. BRADLEY. Mr. President, this amendment eliminates the tax increase on people making under $30,000 a year. This bill contains a tax cut for estates of $5 million, a tax cut in the amount of $1.7 million.

We are not touching that tax cut, but we are trying to prevent the tax increase that will come in this bill for people making under $30,000 a year. The EIC offsets income taxes, Social Security, and excise taxes. The other side has talked only about income taxes.

Last year, with $114 billion in Federal taxes, only $12 billion of that was income taxes from people making under $30,000 a year. Why increase taxes on those hard-working Americans? These are Americans who work every day, and they pay their taxes, and they support their families.

This motion is progrowth and profamily. It deserves to be supported because it is a tax cut for individual working families.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. I yield our time to Senator NICKLES.

Mr. NICKLES. Mr. President, one, let me just tell my colleague from New Jersey, and other colleagues, there is no tax increase for individuals making less than $30,000. That claim has been refuted by the Joint Tax Committee. It is totally false, and people making that claim should really be ashamed of themselves.

Mr. President, I am going to put in the RECORD the facts. The facts are, the earned income tax credit grows even under our proposal. It grows. The maximum benefit that anybody can receive today is $3,100. It grows next year to $3,200. And in 7 years it grows to $3,888. It is an increase.

This is a program that is a cash outlay program. Eighty-five percent of this program is Uncle Sam writing checks, not reducing liability, but writing checks. And it is the most fraudulent program we have in Government today. GAO said 30 to 40 percent of it was in fraud and in error.

It needs to be reformed. That is what we do. This program should be reformed. These proposals that we have made, I think, are the right things to do for American families.

Mr. President, I ask unanimous consent that the table be printed in the RECORD.

There being no objection, the table was ordered to be printed in the RECORD, as follows:

FISCAL YEAR 1996: TWO PARENTS, TWO CHILDREN

Income	EIC: Two or more children		Tax burden			EIC relief: As a percent of tax burden	
	Current law	Senate reform	Income taxes	FICA (15.3 percent)	Total	Current law	Senate reform
$1	$0	$0	$0	$0	$0	261	235
$1,000	400	360	0	153	153	261	235
$2,000	800	720	0	306	306	261	235
$3,000	1,200	1,080	0	459	459	261	235
$4,000	1,600	1,400	0	612	612	251	235
$5,000	2,000	1,800	0	765	765	261	235
$6,000	2,400	2,160	0	918	918	261	235
$7,000	2,800	2,520	0	1,071	1,071	251	235
$8,000	3,200	2,880	0	1,224	1,224	261	235
$8,910	3,564	3,208	0	1,363	1,363	261	235
$9,000	3,564	3,208	0	1,377	1,377	259	233
$10,000	3,564	3,208	0	1,530	1,530	233	210
$11,000	3,564	3,208	0	1,683	1,683	212	191
$11,630	3,564	3,208	0	1,779	1,779	200	180
$12,000	3,486	3,124	0	1,836	1,836	190	170
$13,000	3,275	2,912	0	1,989	1,989	165	146
$14,000	3,065	2,700	0	2,142	2,142	143	126
$15,000	2,854	2,488	0	2,295	2,295	124	108
$16,000	2,644	2,276	0	2,448	2,448	108	93
$17,000	2,433	2,065	15	2,601	2,616	93	79
$18,000	2,222	1,853	165	2,754	2,929	76	63
$19,000	2,012	1,641	315	2,907	3,222	62	51
$20,000	1,801	1,429	465	3,060	3,525	51	41
$21,000	1,591	1,218	615	3,213	3,828	42	32
$22,000	1,380	1,006	765	3,366	4,131	33	24
$23,000	1,169	794	915	3,519	4,434	26	18
$24,000	959	583	1,065	3,672	4,737	20	12
$25,000	748	371	1,215	3,825	5,040	15	7
$26,000	538	159	1,365	3,978	5,343	10	3
$26,731	384	0	1,475	4,090	5,564	7	0
$27,000	327	0	1,515	4,131	5,646	6	0
$28,000	116	0	1,665	4,284	5,949	2	0
$28,553	0	0	1,748	4,369	6,117	0	0
$29,000	0	0	1,815	4,437	6,252	0	0
$30,000	0	0	1,965	4,590	6,555	0	0

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Mr. President, I move to table the Bradley motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question now occurs on agreeing to the motion to table the Bradley motion to commit. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 501 Leg.]

YEAS—53

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Snowe
Coverdell	Jeffords	Specter
Craig	Kassebaum	Stevens
D'Amato	Kempthorne	Thomas
DeWine	Kyl	Thompson
Dole	Lott	Thurmond
Domenici	Lugar	Warner
Faircloth	Mack	

NAYS—46

Akaka	Daschle	Hollings
Baucus	Dodd	Inouye
Biden	Dorgan	Johnston
Bingaman	Exon	Kennedy
Boxer	Feingold	Kerrey
Bradley	Feinstein	Kerry
Breaux	Ford	Kohl
Bryan	Glenn	Lautenberg
Bumpers	Graham	Leahy
Byrd	Harkin	Levin
Conrad	Heflin	Lieberman
Mikulski	Pell	Sarbanes
Moseley-Braun	Pryor	Simon
Moynihan	Reid	Wellstone
Murray	Robb	
Nunn	Rockefeller	

So, the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

GRAHAM MOTION TO COMMIT

The PRESIDING OFFICER (Mr. GORTON). The pending business is the motion of Senator GRAHAM to commit the bill with instructions. There are 2 minutes of debate equally divided.

The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, this reconciliation proposal is filled with risk—risk of the unknown, risks that have consequences that are beyond our ability to forecast. There is no area in this entire legislation that has a greater risk to the people of this country than the proposals in Medicaid.

We are proposing to cut Medicaid by $187 billion—I repeat, a program which, last year, had a total Federal expenditure of $89 billion, we are going to cut, over 7 years, by $187 billion. It is at risk because we are proposing, for those funds that are left, to place them in an inflexible block grant, without Federal participation, in terms of dealing with unexpected circumstances, and we are freezing in many of the inequities that have made this program inappropriate in the past.

Mr. President, we are putting at risk poor children, our elderly and, particularly, the States of America, as they are all being removed from the safety net that Medicaid has provided.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the biggest risk is that we not balance our budget, and that we continue to spend your children's and grandchildren's money to pay for programs we cannot afford.

Obviously, this program is growing so fast, it is unsustainable. Anyone who thinks it is being cut is not hearing the facts. We are going to increase this program to more than $94 billion next year, $124 billion in 2002. And over the entire period of time, this program will increase at a rather healthy rate, while most programs in the National Government are either frozen or reduced.

It is time that we reform this system so we can deliver on what we promise. But we also have to deliver on a promise to get interest rates down, to have growth and jobs for our children. We cannot have the status quo and do that also.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. Mr. President, I move to table the motion and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to table the motion to commit proposed by the Senator from Florida.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 51, nays 48, as follows:

[Rollcall Vote No. 502 Leg.]

YEAS—51

Abraham	Frist	Mack
Ashcroft	Gorton	McCain
Bennett	Gramm	McConnell
Bond	Grams	Murkowski
Brown	Grassley	Nickles
Burns	Gregg	Pressler
Campbell	Hatch	Roth
Chafee	Hatfield	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner

NAYS—48

Akaka	Feingold	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Moynihan
Bradley	Harkin	Murray
Breaux	Heflin	Nunn
Bryan	Hollings	Pell
Bumpers	Inouye	Pryor
Byrd	Johnston	Reid
Cohen	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone

So the motion to lay on the table the Graham motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2959

Mr. EXON. Mr. President, I understand the next vote is on the Kennedy amendment. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been.

Mr. EXON. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on amendment No. 2959 by the Senator from Massachusetts [Mr. KENNEDY] and others.

The Senate will be in order.

Mr. EXON. Mr. President, the Senate is not in order.

The PRESIDING OFFICER. Until conversations cease, we will just have to hold up.

The Senator from Massachusetts is recognized for 1 minute.

Mr. KENNEDY. Mr. President, I thank the Chair. This is an easy choice. My amendment strikes all provisions of the bill that increase the cost for students and families, and preserves choice and competition in the student loan program at the local level.

Senator KASSEBAUM's amendment rightfully pulls back the unfair and extreme provisions that increase the costs for students. It wrongfully prevents schools from choosing the loan program that best serves their students at the local level, and wrongfully provides a Government-mandated monopoly to the powerful special interests in the student loan industry.

I hope my amendment will be accepted.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the Senate will vote on an amendment offered by Senators KASSEBAUM, JEFFORDS, and SNOWE that removes all cuts affecting students. The Senate Republicans do this without raising taxes or taxing investment. The Republican plan will result in lower interest rates which will benefit all students and all Americans. That is what our entire deficit reduction package is all about.

I yield any time I have and I move to table.

Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on the motion to lay on the table the amendment by the Senator from Massachusetts.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 51, nays 48, as follows:

[Rollcall Vote No. 503 Leg.]

YEAS—51

Abraham	Frist	McCain
Ashcroft	Gorton	McConnell
Bennett	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Helms	Shelby
Coats	Hutchison	Simpson
Cochran	Inhofe	Smith
Coverdell	Jeffords	Snowe
Craig	Kassebaum	Specter
D'Amato	Kempthorne	Stevens
DeWine	Kyl	Thomas
Dole	Lott	Thompson
Domenici	Lugar	Thurmond
Faircloth	Mack	Warner

NAYS—48

Akaka	Feingold	Leahy
Baucus	Feinstein	Levin
Biden	Ford	Lieberman
Bingaman	Glenn	Mikulski
Boxer	Graham	Moseley-Braun
Bradley	Harkin	Moynihan
Breaux	Hatfield	Murray
Bryan	Heflin	Nunn
Bumpers	Hollings	Pell
Byrd	Inouye	Pryor
Cohen	Johnston	Reid
Conrad	Kennedy	Robb
Daschle	Kerrey	Rockefeller
Dodd	Kerry	Sarbanes
Dorgan	Kohl	Simon
Exon	Lautenberg	Wellstone

So, the motion to lay on the table the amendment (No. 2959) was agreed to.

Mr. EXON. Mr. President, I move to reconsider the vote by which the motion was agreed to.

Mr. DOMENICI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Could I be advised how long that vote took?

The PRESIDING OFFICER. The last rollcall lasted approximately 13 minutes.

Mr. DOLE. Let me remind my colleagues three times 60 is a long time—we were about 3 minutes late on that vote—if we start slipping these votes for everybody who wants to step out for 5 minutes. If we just stay in the Chamber, we can do this in 10 minutes. I say to my colleagues, we are going to start ringing the bell here in 10 minutes.

The PRESIDING OFFICER. The Senate will be in order. It also slows down the Senate when conversations are going on during debate time.

AMENDMENT NO. 2962

The PRESIDING OFFICER. The issue before the Senate is amendment No. 2962 by the Senator from Kansas, [Mrs. KASSEBAUM]. There are 2 minutes equally divided.

Senator KASSEBAUM will be recognized when the Senate is in order.

The Senator from Kansas is recognized.

Mrs. KASSEBAUM. Mr. President, I yield the time remaining to the Senator from Maine [Ms. SNOWE].

The PRESIDING OFFICER. The Senator from Maine.

Ms. SNOWE. I thank the Chair. I thank Senator KASSEBAUM for yielding.

Mr. President, I want to first recognize several of my colleagues who have been instrumental in helping to craft this amendment and reach a compromise on student loan funding.

First, the chairwoman of the Labor and Human Resources Committee, Senator KASSEBAUM, who has been a real leader on this issue. She has had to make difficult choices and tough decisions throughout this process—especially meeting instructions of $10.8 billion in savings for her committee, so I thank her for her work and for offering this amendment.

Second, the majority leader and the chair of the Budget Committee, Senator DOLE and Senator DOMENICI—for meeting our concerns and being responsive to our requests all along. Their support was obviously instrumental in crafting this amendment.

Finally, one of the main cosponsor of this amendment, Senator JEFFORDS of Vermont, for his concern, his support, and his compassion for the needs of America's students.

Mr. President, let there be no doubt about it, we are setting a course for America for the next 7 years and beyond as we debate the measure before us today. That is a heavy responsibility.

But the image of a better America, a stronger America, and a more fiscally secure America is incomplete for the next generations without one critical component: that is, a commitment to education funding and to students.

I believe one of our duties in this process is to keep the American Dream alive for our generation as well as the next generation of students—because we all know that educating today's students is also about preparing tomorrow's workers.

While I firmly believed that balancing the budget is the greatest legacy we can bequeath to our children and grandchildren, I do not believe it requires the sacrifice of educational opportunities to the children and students today.

Let us be clear about this: our two objectives—balancing the budget and providing quality educational opportunities—are not mutually exclusive entities.

I believe we can identify and set budget priorities within the framework of a balanced budget. I believe it is possible to be fiscally responsible and also be visionary about our education needs into the next century for the next generation.

That is basically what this amendment accomplishes. It is prudent. It is responsible. It's fair. And it maintains our commitment to excellence in education.

The amendment we are offering today would restore $5.9 billion in student loan funding that is sorely needed by America's youth to continue their education.

Basically, we are removing the most onerous and punitive provisions on students that are currently contained in this package.

Those provisions we are targeting for removal include the following: the imposition of a 0.85 percent fee on the student loan volume of institutions of higher learning; the provision increasing the interest rate on parent PLUS loans from T-bill plus 3.1 percent, to T-bill 4.0 percent; and—most importantly—the provision charging interest on student loans during the so-called 6-month grace period.

I believe we must support this amendment because student loans level the education playing field for so many in this country. In the world of education, student loans are the great ''enabler''. They afford everyone the equal opportunity to profit from a college education.

I should know, I owe my education and much of my career in public service to the student loan program, which sustained me at the University of Maine.

Now, it is important to add that the Senate has already gone on record and has made a strong statement in support of increased student loan funding.

Back in May, when the Budget Committee reported out a resolution that included a cut of more than $13 billion in student loan funding over 7 years—and when the House reported out a version that included a cut of over $18 billion, I joined several of my colleagues in taking action—because student loan funding programs would clearly result in leaving some needy students locked out of our Nation's colleges and universities, and therefore locked out of America's work force and a successful career.

And, with bipartisan support from both sides of the aisle, my colleague from Illinois, Senator SIMON, and I authorized and passed an amendment that restored $9.4 billion for student loans. No other amendment, except one, received as much bipartisan support during the consideration of the Senate budget resolution.

We should reaffirm that same level of commitment again today, and with this amendment, we now have an opportunity to do so.

If we pass this amendment, the Senate's strong support for this level of funding will be a strong instruction to the Senate conferees to maintain this level of funding during the upcoming House-Senate Reconciliation conference.

Now, I know that many of my colleagues on the other side of the aisle would have wanted more, especially when it come to direct lending. Obviously, there is a difference of opinion on direct lending.

While the amendment we are offering restores critical funding for loans, it maintains the bills current cap on direct lending at 20 percent. I could support raising this cap to 30 percent, which would cover the 1,300 education institutions currently involved in the direct lending program.

However, the sole purpose of this amendment is to restore funding for student loan programs. other opportunities may arise on the floor today or tomorrow to increase the cap on direct lending.

I have worked with many of my colleagues across the aisle, and I know that—in the final analysis—we share the same goals on funding for student education. That is the most important—the most critical-issue here.

Why is this amendment important to our students and to our future as a nation? What is the value of student loans?

it is unmistakable. Student loans have a tremendous impact on our nation's economy . . . on personal incomes . . . on careers . . . and especially on providing education to needy citizens.

Student loans have given millions of young Americans a fighting chance at reaching their own American Dream: in 1993, it gave 5.6 million Americans that chance, and that was almost double the number of loans made 10 years earlier, when it was 3 million, in fact, statistics show that almost half of all college students receive some kind of financial aid—many through student loans.

They have become especially important considering that the cost of college education and post-secondary education has become a very, very expensive proposition for students, as well as their families.

For example, a College Board survey says that 1995–1996 is the third straight year that tuition costs have risen by 6 percent. Since this rise outpaces income growth in America, there's heavy borrowing for a college education—up an average of 17 percent yearly since 1990.

Each year, college costs rise 6.6 percent for private college while we have recorded a rise in disposable personal income of only 4.4 percent. That 2 percent disparity is what is making student loans a pipe dream for our college-bound students.

In fact, since 1988, college costs have risen by 54 percent—well ahead of a 16 percent increase in the cost of living. And, more tellingly, student borrowing has increased by 219 percent since that time.

Without student aid, increasing costs make higher education out of reach for millions of Americans.

We should not have to bankrupt the families of students in order to allow them to send their children to receive a solid college education.

You see, when we allow students to get the loans they need to complete their college education, we are making a sizable, long-term investment in not only personal incomes, but our economy as well.

Men and women who continue their education beyond high school, as we have seen in study after study, have consistently earned more money on average each year than those who do not.

In 1990, for example, the average income for high school graduates was almost $18,000. For those who had 1 to 3 years of a college education, earned on the average $24,000. Those who graduated from college and received a college diploma received on average salary of $31,000.

According to the U.S. Department of Commerce, a person with a bachelor's degree will average 50 to 55 percent more in lifetime earnings than a person with a high school diploma.

The entire country benefits, as well from student loans. For every $1 we invest in education we get enormous returns as a result. Back in 1990, another study was conducted that analyzed the school assistance that was provided to high school students back in 1972.

For every $1 that the Federal Government invested in the student loan programs at that time, the Government received $4.3 in return in tax revenues.

According to a study by the Brookings Institute, over the last 60 years, education and advancements in knowledge have accounted for 37 percent of America's economic growth.

At a time in which education is becoming paramount in this global arena, where it is going to make the difference for an individual and the kind of living that can be enjoying for themselves and their families, education puts them on the cutting edge.

Most of all, it puts America on the threshold of competition for the future.

If we deny individuals the opportunity to receive an education because

they lack the financial assistance or the access to financial assistance, clearly, we—as a nation, a superpower, and the world's greatest democracy—are going to suffer.

Today, let's make sure that we retain policies that will make higher education accessible to millions of low—and middle-income families.

Today, let us make a significant contribution to students pursuing a higher education. Thank you, Mr. President.

Mr. President and Members of the Senate, I am very pleased to have joined Senator KASSEBAUM and Senator JEFFORDS offering this amendment that essentially restores $5.9 billion to the student loan program. This essentially reaffirms the position that has been taken by 67 Members of this body when we had a vote on this issue last spring to the budget resolution.

This amendment removes the provision that increases the origination fee on student loans. It removes the provision that allows interest rates to accrue during the so-called 6-month grace period, and it also eliminates the provision that allowed interest rates to increase on the PLUS loans from 3.1 percent to 4 percent.

I think we all acknowledge that college costs have increased in this country. In fact, since 1988, they have increased more than 54 percent—16 percent beyond the growth of income for most families in America. That has resulted in increased borrowing of 219 percent for individuals and families all across this Nation so that their family and their children can pursue higher education.

I think it essential for this country to retain the policies that ensure access for low- and middle-income families through these policies.

I also ask unanimous consent to include as cosponsors of this amendment Senators ROTH, DOMENICI, PRESSLER, STEVENS, and SPECTER.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. SNOWE. I yield the floor.

The PRESIDING OFFICER. The time of the Senator from Maine has expired.

Mr. FRIST. Mr. President, I rise in support of the Kassebaum amendment which strikes from the budget reconciliation bill the provisions relating to a .85 percent school fee, the elimination of the grace period interest subsidy, and the PLUS loan interest rate increase.

Mr. President, I am committed to balancing the budget—this is probably the single most important thing we can do for our children and our country. Today's students will save money if we succeed in balancing the budget. According to Federal Reserve Chairman Alan Greenspan, a balanced budget will lower interest rates by 1–2 percent for everyone.

I am pleased that the leadership has found offsets which will make the Kassebaum amendment revenue neutral. It will allow us to balance the budget without imposing additional costs on students, their parents or schools.

This bill also benefits students by allowing those who have paid interest on education loans a credit against income tax liability equal to 20 percent of such interest up to $500.

As the father of three young children, I believe that education is one of the most important issues facing our nation today. We must continue to offer students across the country the opportunity to excel and obtain their goals. Many students depend on the federal student loan programs as their only chance to go to college. This amendment will allow us to preserve those programs without imposing additional costs on students.

Mr. EXON. Mr. President, I yield 1 minute to the distinguished Senator from Illinois, Senator SIMON.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I shall vote for the Kassebaum amendment, but I have to say I am doing it with real mixed feelings because it fails to address something that every higher education association favors, and that is direct lending. The colleges and universities in your States want direct lending. The bankers in your States and the guarantee agencies do not want it because they have a cushy deal going right now.

The Kassebaum amendment is an improvement over the resolution as it is right now, so I will vote yes for it.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The Senator from New Mexico.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays are requested.

Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 504 Leg.]

YEAS—99

Abraham	Coverdell	Harkin
Akaka	Craig	Hatch
Ashcroft	D'Amato	Hatfield
Baucus	Daschle	Heflin
Bennett	DeWine	Helms
Biden	Dodd	Hollings
Bingaman	Dole	Hutchison
Bond	Domenici	Inhofe
Boxer	Dorgan	Inouye
Bradley	Exon	Jeffords
Breaux	Faircloth	Johnston
Brown	Feingold	Kassebaum
Bryan	Feinstein	Kempthorne
Bumpers	Ford	Kennedy
Burns	Frist	Kerrey
Byrd	Glenn	Kerry
Campbell	Gorton	Kohl
Chafee	Graham	Kyl
Coats	Gramm	Lautenberg
Cochran	Grams	Leahy
Cohen	Grassley	Levin
Conrad	Gregg	Lieberman
Lott	Nunn	Simon
Lugar	Pell	Simpson
Mack	Pressler	Smith
McCain	Pryor	Snowe
McConnell	Reid	Specter
Mikulski	Robb	Stevens
Moseley-Braun	Rockefeller	Thomas
Moynihan	Roth	Thompson
Murkowski	Santorum	Thurmond
Murray	Sarbanes	Warner
Nickles	Shelby	Wellstone

So the amendment (No. 2962) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BUMPERS MOTION TO COMMIT

The PRESIDING OFFICER. The order of business is the Bumpers motion to commit to the Committee on Finance with instructions.

Mr. EXON. Mr. President, I yield 1 minute to the Senator from Arkansas.

The PRESIDING OFFICER. The Senator from Arkansas is recognized.

Mr. BUMPERS. Mr. President, in 1981, this body, all but 11 Senators, voted for a massive tax cut on the argument that it would help balance the budget. Eight years and $2 trillion later, we all knew we had made a massive mistake. We are about to repeat it, though not quite the magnitude of that.

This amendment simply says what my good friend from New Mexico, the chairman of the Budget Committee, said on May 30 of this year, that there is one thing our side has agreed on: There will be no tax cut until we balance the budget.

Senator DOMENICI was right on May 30, and to vote a different way now is wrong.

The New York Times this very morning shows that a vast majority of the American people, even the wealthy who benefit most from this, are all opposed to a tax cut until we balance the budget. It is fiscal responsibility, and that is the reason we call this the fiscal responsibility amendment.

I yield the floor, Mr. President.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute.

Mr. DOMENICI. Mr. President, this amendment, I think, points up the difference between the two parties. We have a balanced budget. It has been certified by the Congressional Budget Office. Once we adopt this reconciliation instruction, we will have a balanced budget. Then it is time to give the taxpayers of America some relief.

We get a $170 billion economic dividend for getting a balanced budget. What should we do with that money? Should we spend it, or should we give it back to Americans, especially families who are having difficulty raising their children because we whittled down their deduction such that they are kind of on their own?

I believe it is right when you have made savings and have a balanced

budget, according to the Congressional Budget Office, that you ought to give money back to the people and not let the dividends sit around so we can spend it. The people want to spend their own money. It happens to be theirs, not ours.

Mr. President, I move to table the Bumpers motion, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Bumpers motion to commit. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 505 Leg.]

YEAS—53

Abraham	Faircloth	Lugar
Ashcroft	Feinstein	Mack
Baucus	Frist	McCain
Bennett	Gorton	McConnell
Biden	Gramm	Murkowski
Bond	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Coverdell	Inhofe	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lieberman	Warner
Domenici	Lott	

NAYS—46

Akaka	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Jeffords	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Specter
Exon	Leahy	Wellstone
Feingold	Levin	
Ford	Mikulski	

So the motion to lay on the table the Bumpers motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

BAUCUS MOTION TO COMMIT

Mr. EXON. Mr. President, according to the pending business, the next item of business is the rural restoration motion.

I yield to the Senator from Montana for 1 minute.

Mr. BAUCUS. Mr. President, the budget bill before us is a raid on rural America. It cuts the farm program and begins to eviscerate, obliterate the farm program by cutting $13.4 billion over 7 years, 25 percent cut. The budget bill cuts health care, disproportionately affecting rural America because our hospitals have so many seniors. Medicaid is cut, hurting rural America. There is already a tendency for people to leave the farm and go to the city to seek some job to survive. We here should be sensitive to rural America, not insensitive, by raiding rural America. This bill before us raids rural America, accelerates the transfer of people from rural America to the city, which is something we should not do.

So my amendment simply says to the Finance Committee, go back and restore some of these provisions that affect rural America, but still balance the budget.

I urge adoption of the amendment.

Mr. DOMENICI. Mr. President, under the proposed reforms in this bill, the Federal Government will be spending and continue to spend $64.8 billion in outlays over the next 7 years for commodity-related programs.

Farmers will benefit the most of all groups of Americans if interest rates come down because they rely most on borrowed money, as compared with any other group of business men or women in the country.

Farmers and rural America will also benefit from the capital gains reduction in this bill.

In addition, this amendment instructs the Finance Committee to make changes in programs that are not even within their jurisdiction.

Mr. President, since that makes it not germane, I raise a point of order that this motion violates the Budget Act.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending motion, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the Budget Act.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 46, nays 53, as follows:

[Rollcall Vote No. 506 Leg.]

YEAS—46

Akaka	Feingold	Lautenberg
Baucus	Feinstein	Leahy
Biden	Ford	Levin
Bingaman	Glenn	Lieberman
Boxer	Graham	Mikulski
Breaux	Harkin	Moseley-Braun
Bryan	Heflin	Moynihan
Bumpers	Hollings	Murray
Byrd	Inouye	Nunn
Conrad	Johnston	Pell
Daschle	Kennedy	Pryor
Dodd	Kerrey	Reid
Dorgan	Kerry	
Exon	Kohl	
Robb	Sarbanes	Snowe
Rockefeller	Simon	Wellstone

NAYS—53

Abraham	Faircloth	Mack
Ashcroft	Frist	McCain
Bennett	Gorton	McConnell
Bond	Gramm	Murkowski
Bradley	Grams	Nickles
Brown	Grassley	Pressler
Burns	Gregg	Roth
Campbell	Hatch	Santorum
Chafee	Hatfield	Shelby
Coats	Helms	Simpson
Cochran	Hutchison	Smith
Cohen	Inhofe	Specter
Coverdell	Jeffords	Stevens
Craig	Kassebaum	Thomas
D'Amato	Kempthorne	Thompson
DeWine	Kyl	Thurmond
Dole	Lott	Warner
Domenici	Lugar	

The PRESIDING OFFICER. On this question, the yeas are 46, the nays are 53. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is sustained and the motion falls.

Mr. ABRAHAM. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I suggest the absence of a quorum and ask unanimous consent that time be charged to neither side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand that it is our turn for three successive amendments, and the first of those three that we have on our side will be the Social Security earnings test by Senator MCCAIN.

Will the Chair announce how much time is on these three amendments?

The PRESIDING OFFICER. Ten minutes equally divided.

The Senator from Arizona.

Mr. FORD. Mr. President, will the Senator yield for just a minute? We were looking for what these amendment are. Can we have those? It just says ''Finance Committee amendment,'' and we do not know what it is. We need a little bit of information. That was required of us last night.

I thank the Chair.

I am grateful to the Senator. I thank him.

AMENDMENT NO. 2964

(Purpose: To express the sense of the Senate regarding the need to raise the Social Security earnings limit)

The PRESIDING OFFICER. The clerk will report the amendment.

The legislative clerk read as follows:

The Senator from Arizona (Mr. MCCAIN), for himself, Mr. DOLE, Mr. COATS, and Mr.

NICKLES, proposes an amendment numbered 2964.

At the appropriate place in the Act, add the following:

SEC. . SENSE OF THE SENATE.—The Senate finds that

(a) The Senate has held hearings on the social security earnings limit in 1994 and 1995 and the House has held two hearings on the social security earnings limit in 1995;

(b) The Senate has overwhelmingly passed Sense of the Senate language calling for substantial reform of the social security earnings limit;

(c) The House of Representatives has overwhelmingly passed legislation to raise the exempt amount under the social security earnings limit three times, in 1989, 1992, and 1995;

(d) Such legislation is a key provision of the Contract with America;

(e) The President in his 1992 campaign document ''Putting People First'' pledged to lift the social security earnings limit;

(f) The social security earnings limit is a depression-era relic that unfairly punishes working seniors; therefore,

(g) It is the intent of the Congress that legislation will be passed before the end of 1995 to raise the social security earnings limit for working seniors aged 65 through 69 in a manner which will ensure the financial integrity of the social security trust funds and will be consistent with the goal of achieving a balanced budget in 7 years.

Mr. MCCAIN. Mr. President, this amendment signals the Senate's intent to move forward expeditiously on reforming the earnings test. The majority leader has let it be known that he will move this matter soon, as early as next week depending on the action of the House of Representatives. I appreciate the leadership of the majority leader, and I also want to thank former Finance Committee chairman, Senator Packwood, and Senator MOYNIHAN for their help and for their support on this matter.

Additionally, I want to note that the House of Representatives today passed a similar amendment by the overwhelming vote of 414 to 5.

Mr. President, the Social Security earnings test was created during the Depression era when senior citizens were being discouraged from working. This may have been appropriate then when 50 percent of Americans were out of work. But it is certainly not appropriate today. It is not appropriate today when seniors are struggling to get ahead and survive on limited incomes. Many of these seniors are working to survive and make it on a day-to-day basis.

Mr. President, most Americans are amazed to find that older Americans are actually penalized by the Social Security earnings test for their productivity. For every $3 earned by a retiree over the $11,160 limit, they lose $1 in Social Security benefits. Due to this cap on earnings, our senior citizens, many of whom are existing on low incomes, are effectively burdened with a 33-percent tax on their earned income.

I want to point out this only applies to people who have to go to work. If someone is very rich and has a trust fund, pension, stocks, all of the gain that is accrued from that is not taxable. It only applies to low-income and middle-income Americans who in our society today have to go to work tragically for a broad variety of reasons.

Mr. President, there has been a lot of partisanship back and forth today, some regrettably and some of it is a natural happenstance when a revolution is taking place because that is basically what this is all about.

Let me point out that I heard a lot of pleas and cries in behalf of seniors on the part of friends on the other side of the aisle. In 1987, I came to the floor of this body and sought repeal of the Social Security earnings test. There was a hearing in the Finance Committee chaired by former chairman and former Secretary of Treasury Bentsen.

In 1988, I brought this amendment to the floor, and in 1989 I brought it to the floor, and in 1990, 1991, 1992, 1993, and 1994. And each time on the other side of the aisle it was turned down.

I am happy to say that now this side is in the majority. In both bodies we will repeal the onerous and outrageous earnings test which on the other side they failed to do.

Mr. President, if I sound a little excited about that, it is because we have had a lot of rhetoric today about how cruel Members on this side of the aisle are to senior citizens.

The best way, the most effective way that we can help senior citizens today is for those who seek to go to work and have to work for a broad variety of reasons to be allowed to keep their earnings. And, by the way, it would only be raised up to $30,000.

Mr. President, there is a couple who are friends of mine who live near me in northern Arizona. They are low-income Americans. They have a son who had prostate cancer. The son has a daughter that he has to take care of in a home. My friend's wife had to go back to work in order to support her son and her granddaughter. She went to work in a hospital where she has been working. She dramatically increased her hours because she is now helping her son who had prostate cancer and was out of work. And she gets what? She found out 2 weeks ago that she owes the Federal Government $1,200 because she exceeded the $11,000 limit.

So her ability to care for herself, her husband, her son and her granddaughter is dramatically penalized because this earnings test puts her in the highest tax bracket of anyone in America, amongst the richest.

Mr. President, as I said before, there is also a myth that repeal of the earnings test would only benefit the rich. Nothing could be further from the truth. The highest effective marginal rates are imposed on the middle-income elderly who must work to supplement their income.

Mr. President, finally it is simply outrageous to continue two separate policies that both keep people out of the work force who are experienced and who want to work. We have been warned to expect a labor shortage. Why should we discourage our senior citizens from meeting that challenge?

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. Mr. President, in order to move things along, we have a great amount of work to do, we yield back our allotted 5 minutes.

Mr. MCCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. MCCAIN. Mr. President, I ask unanimous consent that editorial endorsements from several newspapers, and also from various organizations, ranging from the Seniors Coalition to the National Council of Senior Citizens, and others, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

EDITORIAL ENDORSEMENTS

Chicago Tribune: The skill and expertise of the elderly could be used to train future workers, while bringing in more tax dollars and helping America stay competitive in the 21st century.

Los Angeles Times: As the senior population expands and the younger population shrinks in the decades ahead, there will be an increasing need to encourage older workers to stay on the job to maintain the nation's productivity.

The Baltimore Sun: The Social Security landscape is littered with a great irony: While the program is built on the strength of the work ethic, its earnings test actually provides a disincentive to work . . . One consequence of this skewed policy is the emergence of a gray, underground economy—a cadre of senior citizens forced to work for extremely low wages or with no benefits in exchange for being paid under the table.

Dallas Morning News: Both individual citizens and society as a whole would benefit from a repeal of the law that limits what Social Security recipients may earn before their benefits are reduced.

The San Diego Tribune: The benefit-reaction law made some economic sense when Social Security was established in the 1930s and the government wanted to encourage the elderly to leave the labor force and open up jobs for younger workers. But with declining birth rates and the nation's need for more, not fewer, experienced workers, the measure is bad for the nation as well as its older workers.

Wall Street Journal: The punitive taxation of the earnings limit sends the message to seniors that their country doesn't want them to work, or that they are fools if they do.

The New York Times: . . . it is not wrong to encourage willing older adults to remain in the work force.

The Orange County Register: Indeed, repealing the tax might actually increase revenues. More people would be working, paying more taxes of all kinds, including the Social Security tax. If our government bureaucrats want us to keep paying their salaries, the least they can do is make it possible to work in the first place.

Houston Post: Equity and common sense demand that this disincentive to work be scrapped.

The Cincinnati Enquirer: No American should be discouraged from working, as long as he wants to and is physically able to do so.

The Indianapolis Star: On the face of it, the game appears rigged in favor of those who stop working at 65 and against those who keep working, in favor of well-to-do retirees and against middle- and low-income retirees who need a part-time job to help with expenses.

Forbes: Moreover, people are living longer; the economy is hurt when artificial barriers block the full use of our most productive asset, people.

Detroit News: Work is important to many of the elderly, who are living longer. They shouldn't be faced with a confiscatory tax for remaining productive.

[From the Los Angeles Times, Nov. 17, 1991]

WHY PUSH THEM OUT OF WORK?

CONGRESS SHOULD ELIMINATE OUTMODED SOCIAL SECURITY EARNINGS TEST

There are more than 40 million Americans age 60 or older, many of whom are eager to work beyond normal retirement age but can't afford to, thanks to an outmoded earnings test applied to Social Security recipients. The Senate, in a provision attached to the extension of the Older Americans Act, has voted to eliminate this punitive restriction. The measure now goes to a congressional conference committee, where House conferees will have a chance to accept the Senate's provision. They should do so, and the House should adopt it. Millions of workers would be the better for it, and so would government and society.

Current law says that people between the ages of 65 and 70 who draw Social Security and who earn more than $9,720 a year must lost $1 in Social Security benefits for every $3 they earn over that limit. This rule effectively applies to those workers a 33% marginal tax rate—higher than anyone else must pay—but there is more. Sen. John McCain (R-Ariz.) says that when federal, state and other Social Security taxes are factored in, the tax bite approaches nearly 70%. If that isn't age discrimination, McCain suggests, nothing is.

There is no earnings ceiling for Social Security recipients age 70 or older. It's nonsensical to have one for those younger. Maintaining the arbitrary ceiling and taxing away 33 cents out of every dollar earned from those who exceed it drives millions of productive workers into forced retirement. The nation's economy is not so robust that it can afford to lose willing, able and experienced employees. Federal and state treasuries are not so flush they can pass up the revenues that could be had from taxes on the higher earnings of older workers.

Why chase people who want to work out of the labor force? Why make this pool of talent lie stagnant? The earnings ceiling is an echo of an earlier time when it was argued that older workers had to be pushed into retirement to make jobs available for new entrants into the work force. Demographics and the needs of the economy have changed. Millions of those older workers want to go on working without being punished if they earn too much. The time has come to let them do so.

[From the Arizona Republic, Nov. 17, 1991]

AGE DISCRIMINATION: LIFT EARNINGS CAP

Congress dotes on its anti-discrimination record. How then to explain why its continuing prejudice is targeted at a particular minority?

The earnings cap on Social Security benefits is a form of discrimination. ''The earnings test translates into an effective tax burden of 33 percent,'' Sen. John McCain told a Senate committee. ''Combined with federal, state and other Social Security taxes, it can amount to a stunning tax bite of nearly 70 percent.''

The cap on earnings—set at $9,720 for retirees age 65 to 70—is ''age discrimination of the worst kind,'' the senator said, and that ''is plainly wrong.'' For every $3 earned above the cap, seniors lose $1 in benefits.

As Mr. McCain points out, it is foolish to maintain a policy that keeps people with experience and a willingness to apply their skills out of the work force, especially when the country faces economic stagnation and declining international competitiveness.

Punishing people for working is wrong in an even more fundamental way. It violates an American principle known as the work ethic. Surely it is poor social policy to maintain disincentives to productive labor. Better to let seniors who have something to contribute slip back into harness. Besides, many of them need the extra income.

The Bush administration argues that eliminating the earnings test would cost $3.9 billion in fiscal 1992. Sen. McCain disagrees. He argues that lifting the cap would save money, both through the collection of additional taxes on the earnings of seniors and administrative savings.

A Senate-passed measure to lift the cap is now in a conference committee, where it must be reconciled with a House-approved bill that would not eliminate the earnings penalty. If the House cares anything at all about fairness, it will end the discrimination now in place and free older Americans to work.

[From the Chicago Tribune, Jan. 5, 1991]

END SOCIAL SECURITY EARNING CURBS

(By U.S. Rep. J. Dennis Hastert)

When a country doesn't support its stated goals by adopting policies to achieve those goals, its aims become unattainable. Such is the case with our goal of restoring U.S. competitiveness in the global market. We say we want to regain our competitive edge, yet we follow obsolete policies that preclude us from fielding the most productive work force possible.

The most pernicious example of this practice is the continued application of the Social Security Earnings Test, a Depression-era relic that penalizes senior citizens who work after they retire. By forcing seniors to, forfeit one-third of their Social Security benefits after they earn more than a ridiculously low amount, the Earnings Test tells the elderly we no longer value their expertise and experience.

Seniors between 65 and 70 who earn more than $9,360 are slapped with a 33 percent penalty. In short, the government siphons $1 in penalties for every $3 a productive senior earns over the limit. When coupled with federal taxes, seniors who earn a penalty $10,000 a year are faced with a 56 percent marginal income tax rate—twice the rate of millionaires.

The Social Security Earnings Test is age discrimination, pure and simple. Not only does it discriminate against one age group, it also afflicts the seniors who need extra income the most. Seniors can receive stock dividends and interest payments without losing Social Security benefits, but those who work at low-paying jobs to make ends meet are punished for attempting to remain financially independent.

At a time in our nation's history when the operative buzz word is ''competitiveness,'' policymakers are hypocrites when they preach the gospel of working harder while retaining outdated policies that strip our labor force of productive and experienced workers. Just as business leaders must modernize their factories, congressional leaders must update public policy.

The Social Security Earnings Test was instituted in the 1930s to discourage seniors from working and make room for younger Americans to enter the work force. Whether this was a good idea at the time is hardly relevant; as the U.S. population ages, seniors are becoming an increasingly important segment of the labor force. The government should support them, rather than financially penalize them, for remaining active and productive.

By the end of this decade, there will be 1.5 million fewer members of the work force aged 16 to 24. Coupled with this trend is the fact that there is a sharply increasing number of older persons relative to the working population. To respond to these challenges, the United States needs to attract more people to participate in the labor force.

I have introduced legislation that would help our businesses adapt to the demands of the international marketplace by making our work force more productive. My bill, H.R. , the Older Americans Freedom to Work Act, has a majority of House members as co-sponsors, as well as considerable support in the Senate (Sen. Rudy Boschwitz, R-Minn., introduced the Senate version). But many in the House leadership remain opposed to it. The Ways and Means Committee chairman, Rep. Dan Rostenkowski (D-Ill.), and Social Security subcommittee chairman, Rep. Andrew Jacobs (D-Ind.), are laboring under the incorrect assumption that repeal of the Earnings Test will lead to a shortfall in government revenue, when exactly the opposite is true.

If the Earnings Test is repealed, more seniors—up to 700,000, according to the National Center for Policy Analysis, an economic research group—would rejoin the work force, expanding the tax base and increasing the amount of tax revenue the government receives from these returning workers and taxpayers. As a result, the NCPA reported, the annual output of goods would increase by at least $15.4 billion.

The NCPA, in concert with the Institute for Policy Innovation, another research group, revealed these findings in a recently published report, ''Paying People Not to Work: The Economic Cost of the Social Security Earnings Limit.''

Repealing the Earnings Test would also be a federal revenue gainer, the groups reported. ''Government revenue would increase by $4.9 billion, more than offsetting the additional Social Security benefits that would be paid,'' the report stated.

The few remaining naysayers who continue to oppose repeal of the Earnings Test base their opposition on the belief that Social Security is an insurance policy. Specifically, Jacobs argues that benefits should be allocated only to those who are ''retired''—and if someone is still working, and hence not ''retired,'' he or she should not receive full benefits.

This reasoning ignores the difficulty seniors encounter in attempting to survive solely on Social Security or working at a job; seniors frequently need both to make ends meet. Because economic realities necessitate more money than Social Security or, say, a job at McDonald's provides, the Earnings Test must be repealed. Jacobs is simply out of step with the realities of the cost of living in the 1990's.

It is disturbing that two powerful committee chairmen are in a position to block landmark legislation that has the official support of a majority in the House.

It would be one thing to have the Older Americans Freedom to Work Act deliberated on the House floor and tabled. At least then the merits—or what some believe to be the lack thereof—would have been put in the open and subject to public inspection.

But a powerful minority of House leaders are doing everything in their power to make sure this bill is never debated on the House floor. Because of their refusal to allow deliberation on the proposed repeal of the Earnings Test, one can only conclude that they are fearful open discussion would lead to an even greater groundswell of public support and a demand that Congress move swiftly to approve the bill.

As our country takes steps to make itself more economically competitive for the 21st Century, it is clear that we will have to use every available resource, especially in the U.S. work force. Remaining competitive in the next century requires adopting policies that foster economic vibrancy and doing away with outdated policies that inhibit it. Repealing the Social Security Earnings Test will both encourage a large portion of the population to remain productive and help bolster the economy. The realities of our economic situation demand that we do so.

AIR FORCE SERGEANTS ASSOCIATION,
INTERNATIONAL HEADQUARTERS,
Temple Hills, MD, January 8, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC

DEAR SENATOR MCCAIN: The Air Force Sergeants Association strongly supports your amendment to S. 243 to repeal the Social Security Earnings Test. We have written to the House and Senate conferees expressing this support and are ready to assist in any way possible.

Sincerely,

JAMES D. STATON,
Executive Director.

THE SENIORS COALITION,
Washington, DC, January 26, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: I wanted to take just a moment to thank you for introducing the Senate measure to repeal the Social Security Earnings Test.

The Seniors Coalition has made this issue the cornerstone of our legislative agenda over the past three years. We have worked closely with Rep. Dennis Hastert in the House of Representatives and will continue to work with the House Republican Conference now that the Contract With America addresses the earnings limit.

I am enclosing for your information our Issue Paper on the earnings limit, as well as my recent testimony to the Ways and Means Social Security Subcommittee. The Seniors Coalition is ready to assist you in any way possible to ensure the success of your measure. This issue is very important to our two million members and they love being asked to get involved with legislative issues.

Please feel free to contact may assistant, Kimberly Schuld at (703) 591–0663 if there is anything we can do to help.

Sincerely,

JAKE HANSEN,
Vice President for Government Relations.

WALT DISNEY WORLD CO.,
June 9, 1994.

Hon. JOHN MCCAIN,
U.S. Senate, Senate Russell Building, Washington, DC.

DEAR SENATOR MCCAIN. We fully support your proposal to eliminate the Social Security Earning Limit for senior citizens age 65 to 69. Furthermore, we favor additional relief for senior citizens in the age group 62 to 64 who are faced with an even more stringent limit on their earnings.

In today's society, Social Security is a supplement to a senior's income which is traditionally pension and investments. Unfortunately, some must continue to work to maintain a quality of life that is becoming evermore expensive.

Our opinion is formulated by the following compelling issues:

Our nation is faced with a shrinking labor supply for one of the fastest growing sectors of the economy—the service sector. Many seniors are fully capable of and interested in filing these openings.

As stated in your fact sheet, we should not have a system that has built-in disincentives that inhibit seniors from working.

The current ''cap'' of $8,040 does not permit a senior in the 62–64 age group to work in a minimum wage ($4.25/hour) job for an entire year without incurring a penalty on the last 10% of their income.

Seniors represent a growing part of our population who possess skill and attributes that employers are seeking. Seniors offer experience and an excellent work ethic to an employer.

Also, in light of the health care reform issue that is on everyone's mind, by raising the earnings ''cap,'' this will allow seniors to avoid the Catch–22 of not being able to work enough hours to qualify for health care at most corporations.

In conclusion, we believe that seniors should always be able to work in a minimum wage paying job full time (40 hours per week) without being penalized. To ensure that this is not a future problem, we recommend that the Social Security Earnings Limit be indexed at 25% above the annual full time income based on prevailing federally mandated minimum wage. Currently, that would increase the cap to $11,050. Internally, this would allow us to hire a senior, have them work 30 hours per week, and penetrate the rate range to the second step before reaching this new ceiling.

Thank you for the opportunity to express our views on this important issue.

Sincerely,

DIANNA MORGAN.

NATIONAL COUNCIL OF SENIOR CITIZENS,
Washington, DC, September 9, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: We urge your support of an early and positive vote for S. 3008, the Older Americans Act (OAA) reauthorization. We believe that further delay in reauthorizing the Act is a disservice to the millions of seniors and their families who depend on vital OAA programs.

The National Council of Senior Citizens, comprised of five million seniors active in five thousand clubs and Councils, has made passage of the OAA reauthorization one of our highest priorities for this Session. The Council has historically supported a sound Social Security retirement test amendment has caused a yearlong delay in final passage of the OAA. The two issues should be separated now and support of S. 3008 is the best way of resolving this matter.

Inaction on S. 3008 will be the cause of further loss of resources and a weakening of the national commitment to meet the needs of older persons at risk. We trust that we can count on your vigorous support of S. 3008.

Sincerely,

LAWRENCE T. SMEDLEY,
Executive Director.

COUNCIL OF JEWISH FEDERATIONS,
Washington, DC, July 23, 1992.

DEAR SENATOR: On behalf of the Council of Jewish Federations, I am writing to urge the immediate passage of the reauthorization of the Older Americans Act, S3008. Millions of older citizens depend on the programs funded in this Act for community and social services, nutrition programs, senior centers, legal assistance, homebound care and assistance, research and demonstration, and employment opportunities.

As a network of over 200 Jewish Federations and their affiliated social service agencies, we are charged with the responsibility for providing thousands of elderly people with a life of quality. The Older Americans Act, with its coordination between local, state, and federal agencies, enables us to do this.

The Older Americans Act, originally enacted in 1965, has been a framework for providing vital nutritional and social services to the elderly community for over 25 years. At a time when seniors are growing as a population, the Older Americans Act should not be pulled from them. By passing the Older Americans Act the Senate will move one step further along in the process necessary to ensure that the elderly may continue to receive the quality care they need.

We urge you to pass this critical legislation immediately.

Sincerely,

MARK E. TALISMAN,
Director.

OLDER WOMEN'S LEAGUE,
Washington, DC, September 9, 1992.

DEAR SENATOR: On behalf of the Older Women's League, I am writing to urge you to pass the Older Americans Act, S.3008, before Congress adjourns.

I cannot stress strongly enough how important it is to pass the Older Americans Act. The reauthorization of this legislation and its programs is critical to providing continuing supportive services for millions of older Americans, most of whom are low-income and women. Without final passage, important new programs cannot be initiated and the White House Conference on Aging cannot take place. Amendments of particular importance to OWL are those requiring data collection on long-term care workers, and supportive services for family caregivers.

From its inception, the Older Women's League has sought changes in Social Security that would make the system more equitable for women. While OWL has endorsed the Social Security provisions attached to the OAA conference bill passed by the House of Representatives, we believe that these and other changes to Social Security should be dealt with in a more appropriate legislative measure. We hope to continue working with Congress next year to make Social Security equitable for beneficiaries, particularly women.

Passage of the Older Americans Act is long overdue. The Act is the cornerstone of services for this country's most vulnerable older population. Congress must reaffirm its commitment to assure the quality of life sought for older Americans as declared in Title I of the Act.

Sincerely,

LOU GLASSE,
President.

NATIONAL COUNCIL ON THE AGING, INC.,
Washington, DC, September 9, 1992.

DEAR SENATOR: The National Council on the Aging, Inc. urges you to support for immediate Senate action to reauthorize the Older Americans Act, S. 3008.

Today, we are joining forces with many other national organizations to seek your help in passing a clean Older Americas Act.

For the past two decades, the OAA has provided vital services including congregate and home-delivered meals, transportation, information and referral, advocacy assistance, visiting and telephone reassurance, homemaker services, legal and employment services.

Failure to take action on the reauthorization means that none of the many significant improvements in OAA services crafted after long Congressional scrutiny will be initiated. Inaction has already had an effect on the current appropriation process in the House.

The delay in passing the OAA jeopardizes those services that allow millions of older Americans to maintain their independence and dignity. This year's amendments, many of which enhance services under the Act, cannot be implemented until it passes. Failure to pass the reauthorization will create a major rift in the covenant between Congress and the older population of our country.

I cannot stress strongly enough the importance of passage of S. 3008, the Older Americans Act at this time.

Sincerely,

DR. DANIEL THURSZ,
President.

NATIONAL ASSOCIATION OF AREA AGENCIES ON AGING,
Washington, DC, September 9, 1992.

JOHN MCCAIN,
U.S. Senate,
Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the members of the National Association of Area Agencies on Aging, I am writing to urge you to take immediate action to pass the Older Americans Act reauthorization legislation, S. 3008. Thousands of older Americans in Arizona and millions of elders across our nation depend on the services provided under the Act—information and referral, supportive services, nutrition programs, transportation, in-home care and assistance, and the long-term care ombudsman program.

Senate inaction on S. 3008 is placing low-income, minority, and frail elders in jeopardy. Because of resulting funding problems, older persons are being denied services, there are increases in service waiting lists, and higher levels of unmet need.

As you are probably aware, passage of the Older Americans Act has been stalled by provisions to amend the exemption level of the Social Security earnings test. For the past nine months Congress has been unable to reach an agreement on the earnings test issue. We strongly believe it is time Congress moved beyond this impasse by decoupling the earnings test from the Older Americans Act—by passing S. 3008. Further delay will do a disservice to older persons who depend on Older Americans Act services. We, therefore, urge you to take the necessary steps to obtain immediate passage of this crucial legislation.

Sincerely,

CHERYLL SCHRAMM,
President.

NATIONAL ASSOCIATION OF RETIRED FEDERAL EMPLOYEES,
Washington, DC, September 9, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR MCCAIN: The National Association of Retired Federal Employees (NARFE), and its nearly 450,000 members, is greatly concerned that the Older Americans Act has not yet been reauthorized.

Today, we are joining forces with many other national aging organizations to seek your help in passing a clean Older Americans Act, S. 3008. Unless the Act is reauthorized soon, we fear that service programs that benefit low-income, minority and frail elders will be jeopardized.

We hope that you will join with us to urge passage of S. 3008 so that Older Americans Act programs for community and supportive services, nutrition programs, senior centers, legal assistance and elder opportunities serving millions of older Americans will be able to continue uninterrupted.

Sincerely,

HAROLD PRICE,
President.

NATIONAL ASSOCIATION OF STATE UNITS ON AGING,
Washington, DC, August 28, 1992.

DEAR SENATOR MCCAIN: The National Association of State Units on Aging urges your support for immediate Senate action to reauthorize the Older Americans Act, S. 3008. While the Older Americans Act itself has received almost unanimous support on the floor of both Houses, it has been held captive for months by a host of seemingly never ending congressional procedural roadblocks and controversial and non-germane amendments.

Failure by the Senate to act swiftly will result in an unconscionable reduction in funds available across the nation to provide meals, transportation, in-home services, jobs, advocacy for nursing home residents, elder abuse prevention and similar, often life-sustaining, services to millions of low-income and frail older persons.

NASUA's members are the nation's 57 state agencies on aging, designated by Governors and state legislatures to represent and serve older persons in their states. They have tried to explain to older persons that these frustrating delays do not indicate a lack of congressional support for this program which is so important to them. However, their questions have turned to anger, their frustration to disillusionment.

Once again, we urge the Senate's immediate passage of S. 3008. Swift action can still avoid unnecessary and unwarranted reductions in Older Americans Act service funds and rescue literally years of congressional work to strengthen the Act from being lost when this Congress adjourns in a few short weeks.

Thank you for your consideration of our views on this issue of critical importance to millions of older persons.

Sincerely,

DANIEL A. QUIRK,
Executive Director.

NATIONAL COMMITTEE TO PRESERVE SOCIAL SECURITY AND MEDICARE,
Washington, DC, October 25, 1995.

Hon. JOHN MCCAIN,
U.S. Senate, Washington, DC.

DEAR SENATOR MCCAIN: Last year, Congress authorized a Commission to study the Social Security Notch Inequity as a way to examine the merits of the arguments for and against legislative action.

The National Committee welcomed the opportunity this Commission presented to adjudicate the merits of this long standing issue.

The Congress is to be congratulated for its efforts to bring this Commission to life.

This year, the leaders of both parties in both Chambers have made all of the eight Congressional appointments.

This month as a part of the Labor/HHS Appropriation Conference report, Congress appropriated $1.8 million so that the Commission can carry out its mandate and report back by the end of the year.

As soon as the President appoints his four members and designates a Chairperson, the Commission will proceed.

I hope that you will agree that the Notch Commission, when activated, will study the issue and note findings which will produce a recommendation. Please do your part to move this Commission into action.

Sincerely,

MARTHA A. MCSTEEN,
President.

THE RETIRED ENLISTED ASSOCIATION,
Alexandria, VA, January 14, 1992.

Hon. JOHN MCCAIN,
U.S. Senate, Russell SOB, Washington, DC.

DEAR SENATOR MCCAIN: On behalf of the more than 54,000 members of The Retired Enlisted Association (TREA) it is my pleasure to offer TREA's support to you in your efforts to repeal the Social Security Earnings Test.

We of TREA appreciate your willingness to address what we believe is a penalty imposed upon older Americans having a strong work-ethic.

Should you or a member of your staff have any specific tasking suggestions for this office on this issue, please don't hesitate to contact me.

Very respectfully,

JOHN M. ADAMS,
MCPO, USN (Ret.),
Director of Government Affairs.

Mr. DOMENICI. Mr. President, I understand this amendment is stacked now. We do not vote on it now. We go next to another Republican amendment. We had a change in what our next amendment would be. But the Democrats have been advised. This will be the Helms amendment. Senator HELMS is ready on the floor, and they have a copy of it on the other side.

AMENDMENT NO. 2965

(Purpose: To allow senior citizens to continue to choose their doctors)

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from North Carolina (Mr. HELMS) proposes an amendment numbered 2965.

On page 461, line 13, after the period, insert the following:

''(3) POINT-OF-SERVICE COVERAGE.—If a Medicare Choice sponsor offers a Medicare Choice plan that limits benefits to items and services furnished only by providers in a network of providers which have entered into a contract with the sponsor, the sponsor must also offer at the time of enrollment, a Medicare Choice plan that permits payment to be made under the plan for covered items and services when obtained out-of-network by the Individual.''

The PRESIDING OFFICER. The Senator from North Carolina is recognized for 5 minutes.

Mr. HELMS. Mr. President, I am sure that I am not alone in my strong feelings that the senior citizens of America must not be deprived of their right to choose their own doctors.

The text of my amendment has been modified to address both my strong desire to preserve the right of the senior citizens and the concerns of a number of Senators relating to options.

The pending amendment stipulates that if a Medicare choice plan offers a closed plan HMO within the Medicare margin, that plan must also offer a point-of-service plan enabling senior citizens to exercise their freedom of choice regarding the selection of physicians.

Three summers ago, I had a little encounter with some remarkable medical doctors, who are also my personal friends, in my hometown of Raleigh. I was at that time, of course, free to

choose the team of surgeons who performed my heart surgery.

The point is that all senior citizens enrolled in Medicare should have the same choice that I had. And the pending amendment will enable senior citizens to preserve their right to choose their doctors.

Most Americans, whether their health is insured by private firms or by Medicare, enjoy their freedom to decide which medical professionals will perform their care and treatment. In reforming Medicare, Congress must make sure that senior citizens know their options and can choose their doctors and other medical providers instead of being required to accept somebody else's lineup of physicians and surgeons.

Mr. President, the Senate is considering major reforms to save Medicare and prevent its being pushed over the cliff. Medicare must be reformed before it goes bankrupt. We agree on that. Otherwise, the Medicare trust fund will be flat broke when the 21st century rolls around just a few years hence.

America's senior citizens—and I am one of them—depend on the health care coverage provided by the Medicare system, and those of us in Congress have a duty to make sure that they will not be forced to give up their right to choose their doctors. It is vital to their future security that our senior citizens retain this right. The power to choose will place senior citizens firmly in control of their health care.

Senior citizens may be enticed to join an HMO because they will gain coverage for prescription drugs and eyeglasses and hearing aids—coverages not presently provided by Medicare.

However, without some moderating legislation, senior citizens could very well find themselves locked into coverage that limits them to services provided by HMO-affiliated doctors, other professionals and hospitals. No longer would senior citizens have the freedom to choose their own doctors.

So, Mr. President, these are the reasons why I am introducing this amendment, to make sure that all Medicare-eligible Americans who choose to enroll in an HMO know their options of choosing the closed panel HMO or the point-of-service plan offered by the same insurance company.

Mr. President, consider if you will the predicament of a patient who requires heart surgery, and whose HMO will not approve the cardiologist with whom the senior has built up a longstanding relationship. My amendment will enable women being treated for breast cancer to have more options when choosing a lower cost plan that will allow them to continue to see the specialists familiar with them and their conditions. For this reason, more than a hundred patient advocacy groups have voiced their support for this amendment.

Point-of-service plans provide a safety valve to protect seniors who find themselves in the position of needing to see a doctor of choice. A point of service plan enables patients to see physicians and specialists inside and outside the managed care network. If seniors citizens are satisfied with the care they receive within the network, they will feel no need to choose outside doctors and specialists.

Mr. President, CBO has given me repeated assurances that a built-in point-of-service feature—the technical term for freedom of choice—would not increase the cost of Medicare. In fact, in testimony before the Senate Budget Committee, CBO stated that ''the point of service option would permit Medicare enrollees to go to providers outside the HMO's panel when they wanted to, and yet it need not increase the benefit costs to HMOs or to Medicare. . . .''

Moreover, the actuarial firm of Milliman and Robertson concluded that depending on the terms of the plan and a reasonable cost sharing schedule, there should be no increase in cost to the HMO. In fact, there could actually be a savings.

The fastest-growing health insurance product is a managed care plan that includes the point-of-service feature. In fact, in 1993, 61 percent of all HMOs offer a point of service option.

Building a point-of-service option into health plans under Medicare will not interfere with the plan's ability to contain cost, nor will it limit their efforts to encourage providers and patients to use their health care resources wisely. It simply will ensure that health plans put the patient's interest first.

We can save Medicare. We can extend its benefits while lowering the towering costs that beset us today. And my amendment, we can also preserve a basic American freedom to choose one's own doctor.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I ask unanimous consent that at the expiration or yielding back of debate time on each amendment, the amendment be laid aside to consider the next amendment in order, and that when the next order of stacked votes begins, each amendment be voted on in the order in which it was offered.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nebraska.

Mr. EXON. Mr. President, I suggest the absence of a quorum and that it be charged to the 5 minutes on our allocated time.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

Mr. DOMENICI. Mr. President, could you hold up on the quorum?

The PRESIDING OFFICER. Does the Senator withhold?

Mr. EXON. Be glad to.

Mr. DOMENICI. Are we charging time because we have not given you this amendment?

Mr. EXON. We are having a great deal of difficulty. Since you have changed the order of offering amendments, our Senator was not alerted, and we are having trouble getting him here.

Mr. DOMENICI. Would you like to have 5 minutes and charge it to no one while the Senator gets down here?

Mr. EXON. I would appreciate that.

Mr. DOMENICI. We are just going to do that.

I ask unanimous consent we go into a quorum call for 5 minutes and that it not be charged to the bill or to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will call the roll.

Mr. EXON. I thank my friend for his courtesy.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that I have a very brief, 2-minute colloquy with Senator HELMS.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. INHOFE. I say to Senator HELMS, just briefly, there was a little evolutionary process that we went through with this amendment. I think the amendment is very good, and I am in support of the amendment. Initially the Senator had it that under a managed plan, if a person wanted to leave the managed plan in one area of specialty, there was a split between the additional costs, if there were additional costs, of 70–30 percent. My suggestion in talking with the Senator and with his staff was it might be a better idea if we had a managed plan that allowed the market to take care of that differential so that if an individual went into a managed plan and at a later date wanted to go to another specialist, that individual would pay the differential himself so that the patient would have the choice of any practitioner he wanted to use and yet the savings of the managed plan would be effected.

My question would be, does the Senator think that perhaps this might avoid a duplication of all kinds of actuarial calculations, just to have one? And maybe we could talk about this or bring this up during the conference.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. The Senator's suggestion was excellent, and as he knows we undertook to adjust and modify the amendment to conform with the Senator's excellent suggestion.

Now, the HMO may set up a cost sharing plan in the manner that the

Senator from Oklahoma suggested. A plan may require that the senior citizen pay up to 100 percent of the difference between what a network doctor would charge and what the HMO would pay for the doctor. And that is, of course, one of the many options.

My amendment is intentionally silent as to how an HMO should set its cost sharing schedule, but as the Senator has suggested, HMO's could set deductibles and other specific cost sharing arrangements.

So I commend the Senator on his suggestion. The modified version of the amendment is at the desk.

Mr. INHOFE. I thank the Senator from North Carolina.

I thank the Chair.

I would like to have a chance to look at that. I think we all want to accomplish the same low cost and choice.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. INHOFE. I thank the Senator. I thank the Chair.

Mr. HELMS. I give the Senator a copy of the modified amendment which is now pending.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Now, Mr. President, could I get back to understanding where we are. We were on a 5-minute kind of recess waiting for the Democrats to have an opportunity and then we got a discussion going, which I think was good, for the record. Now where are we parliamentarywise?

The PRESIDING OFFICER. The Senator from Nebraska has 5 minutes remaining on his time on the amendment.

Mr. EXON. Mr. President, I thank my friend and colleague.

I yield back the 5 minutes of time that was allotted to us in the interest of conserving time and moving ahead.

Let me say the next amendment that we have now, which we do not have, is the amendment to be offered by Senator BROWN, as I understand it. We are having a great deal of difficulty with this shifting back and forth, trying to accommodate an awful lot of people. We do not mind accommodating people, but it is very difficult for us to make a determination on these things and get the proper people here the way we are receiving the amendments, or not receiving them, before they are introduced.

Mr. HELMS addressed the Chair.

The PRESIDING OFFICER. The Senator from North Carolina.

Mr. HELMS. I ask for the yeas and nays on the pending amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HELMS. I thank the Chair.

Mr. DOMENICI. Now, I say to Senator EXON, I am willing to accommodate whichever way he would like. We are not ready with the amendment that we styled for, the Finance Committee amendment. That is being worked on now. I mean, that is just a matter of fact. We cannot bring it until it is done.

Mr. FORD. Mr. President, would the Senator yield for a question?

Mr. DOMENICI. Of course.

Mr. FORD. We have a Brown amendment, and Senator BROWN is not even on the list of 17 given to us. And the first four that were given to us——

Mr. DOMENICI. He is No. 17.

Mr. EXON. That is a question mark, yes.

Mr. FORD. BROWN is a question mark?

Mr. DOMENICI. We never thought he was a question mark.

Mr. FORD. That is a question mark on the list the Senator gave to us?

Mr. DOMENICI. Yes.

Mr. FORD. Now, am I to understand that there will only be 10 out of the 17 that the Senator will give us?

Mr. DOMENICI. Yes. There are only going to be 10 that we will have 5 minutes on a side. Any that are left over go into the——

Mr. FORD. Third tier.

Mr. DOMENICI. The third tier with no time.

Mr. FORD. The only thing we have on the Brown amendment is a question mark?

Mr. DOMENICI. Yes.

Mr. FORD. We just got it. We do not know who to go to here or to have debate or if we want to even debate. This is getting completely out of hand, and we are not doing it properly. We are not being fair to either side. I think that we should stop now and go back and get it in order. And we will have ours. You had the first three, and then we get one, and we can tell you who that is and what it is about.

But I think we ought to take a few minutes, get them in order so we will know and we can have a decent 5-minute debate on each amendment on the floor.

Now, I think the Senator from New Mexico agrees with me because he has been a little bit frustrated by not being able to get them in the order in which he told me that we were going to get them.

So, Mr. President, I urge that we just take some time to get the amendments, because we do not know what the Senator from Colorado is going to offer, except the question mark.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, may I suggest in the interest of an orderly process—I already yielded back 10 minutes of our time, which still holds—therefore, I would suggest possibly it might be a good idea to take a 15-minute quorum call without being further charged to each side, and to come up with an orderly process so we can move expeditiously ahead.

Would the Senator from New Mexico respond?

Mr. BROWN. Will the Senator yield?

Mr. DOMENICI. Mr. President, I am going to yield.

Yes, I say to Senator BROWN, I will be pleased to yield.

Mr. BROWN. I did not mean to interfere. I think the distinguished Senator from Kentucky raises a very valid point. As far as I am concerned, I would be happy to limit my remarks to 1 minute and then to defer for a response time, which would give the distinguished Senator some additional time to review it. I think this is very straightforward.

Mr. FORD. We do not even know what it is yet.

Mr. BROWN. I delivered a copy.

Mr. FORD. We just now got it.

Mr. BROWN. I will try to accommodate any way I can.

Mr. DOMENICI. Mr. President, first, let me say we are in very good shape, comparatively speaking. So, I hope nobody is taken in by my exaggerations, or perhaps the exaggerations of the other side, on how muddled we are. We are not muddled at all. We were going to offer a Finance Committee amendment which is a very important amendment. We have been very forthright. It is not ready.

Now, having said that, we do not have your No. 1 amendment from the second tier. We have a statement of it. We have the Biden tax credit. We have not seen it either. And the Breaux child tax credit has been circulating around, so maybe we have seen it.

Now, what we would like to do is to have Senator BROWN go next. And, I say to the Senator, his is an important amendment, so I would ask him not to take less than 5 minutes. The Senator is entitled to explain it.

So we have that. And there are two changes. Let me see if we can help to get something done. I do not like being in this position either. So what we need to do is to get the Brown amendment. Or does the Senator have it now?

Mr. BROWN. We have copies, and both sides have it.

Mr. DOMENICI. We ask the Senator that he give us the remainder of his first three that we do not have.

We would like 15 minutes; do it the Senator's way. And we will try to get our amendments and get them to the other side. We are having some difficulty because our people did not know exactly when they were going to come up. We drew some arbitrary lines on who was in and who was out, which is tough for some of them.

So, Mr. President, I ask unanimous consent that we have a 15-minute quorum call—

Mr. WARNER. Will the Senator withhold?

Instead of the quorum call, could others address generalities in the

measure rather than just have a quorum call put in? This Senator would require about 6 minutes.

Mr. DOMENICI. Sure. Sure.

Mr. WARNER. I thank the Chair.

Mr. DOMENICI. I ask unanimous consent that we have 15 minutes without an amendment, divided equally, for any Senators, half on the other side, half on ours, that might want to speak to the bill, and that it not be charged to anything, because we are getting very short of time and it is sort of combined—our fault for the time. So let us not charge it to anyone.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER addressed the Chair.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I have been listening with great attention and interest to this very important debate on both sides of the aisle regarding the Balanced Budget Reconciliation Act of 1995.

I am pleased to support the budget which follows through on our promise to balance the budget by the year 2002, protect Social Security, and save Medicare from threatened bankruptcy.

While there has been much debate focused on the details of this massive package, I would like to address the promise to the American people, present and future, that this bill represents. This is not just a budget for another year. This is not a package of routine legislative changes. This is a historic commitment to America that deficit spending is about to come to an end and has been brought about during this first year of the Republican majority in the U.S. Congress.

The net result of a balanced budget will be lower interest rates for years to come and as many as 6 million new jobs. The reforms in this bill will give the States more control over critical entitlement programs that have become inflated with the Federal bureaucracy mismanagement of many years. These programs range from Aid to Families With Dependent Children to Medicaid. I strongly support these initiatives which will let the States decide how best to solve and serve the problems associated with their own citizens.

What is best for Virginia is not necessarily the same as what is best for another State. And this Balanced Budget Reconciliation Act will move more power and money out of Washington back to State governments and local communities where it properly, in my judgment, belongs.

I have received correspondence from many Virginians who support this bill because it will both balance the budget for the sake of future American families, particularly our children, Mr. President, and will pave the way for needed relief for the heavy tax burden on our present American families.

When this budget reconciliation bill is signed into law, we will not be at the end of the trail, but only at the beginning. We will have identified the path and the course, but each year we will have to make spending decisions that will keep us on the road that is being defined here today and tomorrow.

During my nearly 17 years as a privileged Member of this body, I have seen many instances where unforeseen spending requirements from hurricanes to peacekeeping operations have arisen and been funded by the Congress. These will surely occur from now until the year 2002 when the deficit is projected to disappear.

We are now committed to making our Government live within the funding levels contained in this bill. If emergencies occur, we will have to offset their costs with spending reductions. Those budget decisions will be as difficult in the year 2000 as they are this year. But this package is a commitment by the Republican majority and eventually by the entire Congress that we will stay the course.

Mr. President, I yield the floor.

CAPITAL GAINS TAX CUTS: A BOOST TO ECONOMIC GROWTH

Mr. HATCH. Mr. President, I rise in support of the capital gains tax cut provisions in the budget reconciliation bill that lies before us today.

I would like to focus my remarks on the economic effects that these provisions will have on our country.

Mr. President, what often seems to get lost in all of the debate about capital gains is economics.

Opponents of the capital gains tax cut seem content to promote class warfare while ignoring the economic effects of such a change.

It seems to me, however, that instead of worrying about whether the so-called rich will pay less in taxes under this bill, the most important thing to focus on is how to sustain and boost economic growth so we can balance the budget and create the jobs needed by the next generation.

The respected economic forecasting firm of DRI/McGraw Hill has studied our capital gains tax provisions very carefully. Their findings appear on this chart 1 following this statement.

First, we should note that between now and 1999, DRI projects that about 600,000 new jobs will be created as a direct result of the capital gains provisions contained in this bill.

Of paramount concern to all of us is the need to expand the job base so that no matter where one is on the ladder of success, there is opportunity to move up economically.

As this chart 2 shows, most of the new job creation taking place in this country is provided by new companies and those that are in the early phases of their growth cycles.

Look at the figures—while large companies are in the down-sizing mode, small and medium companies are expanding.

The expanding companies are not the long established blue chippers. There is more risk involved investing in these emerging enterprises than in mature companies.

By lowering the effective capital gains tax rates, the risk threshold for all investors will decrease and this will cause more equity funds to become available to companies that are in the growth stage.

To illustrate this dynamic, Mr. President, consider the following facts.

From 1969 to 1971, there were on average 510 new public offerings in this country per year.

From 1972 to 1976, when the effective capital gains rates jumped to just over 49 percent, only 145 new public offerings occurred on average each year.

When the effective capital gains rate fell to 20 percent between 1981 and 1986, the average annual new public offerings figure jumped to 577.

Between 1987 and 1992, when the capital gains tax rate jumped up again to 28 percent, the number of public offerings dropped to only 431.

While some growth in new company formations can be attributed to the fact that our economy was growing during those years, one wonders how much more it might have benefited if we had not increased the capital gains tax rate.

Obviously, there is a relationship between the capital gains tax rate and the rate at which new companies start and grow.

And, because these new and expanding companies are fueling most of our job growth—more than 70 percent of all new jobs are in small business—we can see that lowering the capital gains tax rate will increase the number of jobs in this country.

Mr. President, DRI has made three other projections on chart 1.

Because of the capital gains provisions in this bill, we should experience a 4.1 percent increase in our capital stock, a 5.1 percent increase in fixed investments and a 1.2 percent increase in labor productivity.

What does capital stock refer to? It refers to our investment in plant, equipment, and technology. Even a ditch digger needs a shovel.

While hundreds of millions of laborers around the world work for mere pennies per hour, how is it that most of our American jobs have not already been exported outside of our country? The answer is capital stock.

We have one of the highest ratios in the world of capital stock per labor hour worked.

In other words, for each hour a laborer works, we have more capital invested to support that worker in his or her job than most of our competitors around the world.

As a result, on a per capita basis, American workers are the most productive in the world.

This explains how our country grew from a predominantly agricultural economy to a predominantly manufacturing and services economy without reducing our agricultural output.

It has been estimated that at the turn of the century, about two-thirds of the American work force were in farming.

Today, only about 3 percent of Americans work in farming. Yet, our grocery stores and storage facilities are filled to overflowing even though the number of mouths to feed has gone up and the number of agricultural workers has gone down dramatically.

But for this tremendous infusion of capital stock into the equation, our American farmers would probably be about as productive and well paid as their counterparts in China.

Because of the capital investment supporting our workers, we have made their services more valuable which, in turn, has prompted higher real wage rates here than most other countries in the world.

Mr. President, the critical relationship between capital stock and real wage rates is illustrated by chart 3. Note that as our capital stock grows, real wages increase almost in lockstep. Thus, it is critical that we maintain growth in both capital stock, fixed asset investment, and worker productivity.

And, as the DRI projections show, the capital gains provisions of this bill will do just that.

Please note, Mr. President, the DRI projection in chart 1 that our collective cost of capital will drop by 8 percent as a result of the capital gains tax reductions in our bill.

Many believe that our relatively high cost of capital is a critical area of U.S. weakness when competing in the international marketplace.

Thus, in passing a capital gains tax reduction, we can take a meaningful step today toward narrowing this critical competitive gap and helping all Americans in the process.

It should go without saying that growth in our collective standard of living depends upon growth in our gross domestic product.

Mr. President, a 1.4 percent increase in GDP in the DRI projections contained in chart 1 might not seem like very much, but when applied to a $7 trillion economy, we are talking about an additional $100 billion of growth.

As can be seen from this chart 4, Mr. President, we treat capital gains more punitively than most of our major international competitors.

We can also see why the competitors in the Far East are gaining on us. We need to respond to this challenge in order to enhance our international competitive position.

Mr. President, much has been said about the wisdom of lowering capital gains taxes at a time when we are trying to balance the budget.

In my opinion, tax cuts and balancing the budget are not mutually exclusive, especially in the area of capital gains.

Before the Hatch-Lieberman capital gains proposal underwent minor changes in the Senate Finance Committee, the Joint Committee on Taxation projected that it would result in about $89 billion in lost Federal revenues over 10 years.

I very much doubt that this projection will be accurate, for a couple of reasons.

First, both the CBO and the Joint Committee on Taxation have a poor track record in estimating the revenue effects of capital gains tax rate changes, as can be seen from this chart.

In connection with estimated capital gains realizations for 1991, CBO originally projected realizations of $269 billion while the Joint Committee on Taxation projected realizations of $285 billion.

In reality, there were only about $108 billion worth of realizations for that year. In other words, the CBO was off by 60 percent and the Joint Committee on Taxation was off by 62 percent.

Estimating errors of a similar magnitude were made for 1990. In this case, the Bush Treasury Department projected capital gains revenues of $48 billion, while CBO projected $53 billion for that same year.

In reality, the revenue only amounted to $28 billion. The cumulative gap from 1989 to 1992 between the Bush Treasury's revenue estimates and what actually was realized totaled $85 billion. The CBO was $118 billion off the mark over the same period.

The problem is that the economic models used by CBO, the Joint Committee on Taxation, and the Treasury do not adequately take into account the macroeconomic feedback effects caused by changes in the capital gains tax rates.

This explains the wide divergence between their projections and reality.

It is a fundamental law of economics that people respond to incentives. If we tax a good or service more, people buy or produce less of it. If we tax capital more, we get less.

If we lower the tax on capital, we will create more of it.

For years, the revenue estimating agencies of the Federal Government have failed to adequately account for the feedback effects of taxation.

DRI has included these feedback effects in its estimate.

As the DRI study indicates in chart 1, rather than the loss projected by the Joint Committee on Taxation, we should actually experience at least a $12 billion increase in Federal revenues over the next 10 years.

Personally, I believe this estimate to be on the conservative side. I believe a 50-percent capital gains deduction will unlock the floodgates of capital gains realizations.

There is an estimated $8 trillion in unrealized capital gains in this country. Even if this bill only unlocks a small percentage of this vast mountain of capital, we will have unleashed a tremendous force for growth in our economy.

With the benefit of hindsight, it is easy to see that we made a serious mistake in raising the effective tax rates on capital gains after 1986.

Chart 5 shows the foregone realizations that we missed by the 1986 capital gains tax increase.

The lighter bars indicate actual realizations. Notice, Mr. President, how they drop off and stagnate after 1986 while the Standard and Poors stock index [S & P Index] continued to rise.

The dark bars represent what taxable capital gains realizations would likely have occurred if they had kept pace with the S&P Index, as they did before the capital gains tax increase.

This helps explain why our capital gains tax revenues have been so anemic since 1986.

After jacking up the top effective capital gains tax rate by 40 percent, from 20 to 28 percent, some might have expected a similar 40 percent increase in capital gains tax revenues.

However, we have only managed to generate an average of about 64 percent per year of the capital gains revenue received in 1986; 28 percent is clearly higher than the tax rate that maximizes capital gains revenues to the Treasury.

Mr. President, recent history has made it clear that there is a direct relationship between capital gains tax rates and the amount of revenue from capital gains realizations received by the Treasury.

Experience shows that reducing the capital gains tax rate actually increases government revenues.

Consider the period from 1978 to 1985. On November 1, 1978, the top capital gains rate dropped from an effective 49 percent to 28 percent. It fell again in the middle of 1981 to 20 percent.

Rather than experiencing a similar reduction in capital gains revenue, as some might predict, we saw the sharpest increase in such revenues since World War II.

Annual capital gains tax receipts grew from $9.1 billion in 1978 to $26.5 billion in 1985.

In other words, at the same time we experienced a 59 percent decrease in the top capital gains tax rate, our annual capital gains tax revenues increased by 191 percent.

Mr. President, some of my colleagues on the other side of the aisle are, in effect, saying that no tax benefits should go to the so-called wealthy.

This is ludicrous. How do we expect to attain the economic objectives that we all are seeking if the wealthy stay on the sidelines as mere spectators, rather than as active participants?

Some of my colleagues seem to hold that no matter how beneficial a certain course of action is to the economy and to average Americans, that action is totally unacceptable if the rich get any benefit from it.

Abraham Lincoln once observed that you cannot help the weak by weakening the strong.

Likewise, we cannot help all Americans by punitively taxing wealth. Our progressive income tax already does a good job of that.

Trying to craft a set of incentives that exempts from coverage the very

people whose conduct is critical to the attainment of our economic goals just will not work.

By giving an across-the-board capital gains tax deduction to everyone alike, we will encourage an efficient reallocation of resources in such a way as to stimulate economic growth for all Americans.

As I mentioned earlier, at stake in all of this is about $8 trillion of locked-in capital gains, which if unlocked, would produce substantial revenue gains to the Treasury, as well as create more jobs and economic growth for all Americans.

Let me close Mr. President, with a real-life example that indicates that all of the economic principles I have talked about actually work and are not just theories that sound good.

As a division of a major parent company, Sungard Data Systems had $30 million in annual sales but was losing money.

The parent company decided to sell this division. Venture capitalists believed that they could turn things around and return Sungard to profitability. The new buyers were correct.

After the sale, the new management generated over $440 million in revenues and about $70 million in operating income.

What used to be a 400-employee division before the sale turned into a 2,400-employee company after the sale. This represents a 500-percent increase in jobs.

Did the rich venture capitalists get richer from all of this? Of course they did. But most importantly, 2,000 people had good jobs that did not exist before. This is the way our economy has always worked.

This is America, where it is possible to create wealth for oneself by investing one's sweat, one's brains, and taking a risk. By so doing, the risk taker creates wealth and opportunity for those around him or her.

Now is not time to abandon the economic principles that made this country the greatest economic powerhouse the world has ever known.

Mr. President, I urge all of my colleagues to vote in favor of the tax package reported out of the Finance Committee.

Mr. President, I ask unanimous consent that items referred to above be included in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

September 1995 DRI/McGraw Hill study projects the specific economic benefits that will result from a 50 percent capital gains deduction as follows:

150,000 new jobs created each year from 1997–2000.

4.1 percent increase in capital stock.

5.1 percent increase in fixed investment over 10 years.

1.2 percent increase in labor productivity.

8 percent reduction in the cost of capital.

1.4 percent increase in GDP over 10 years.

$12 billion increase in federal tax revenues over 10 years.

Who Generates the New Jobs?

Answer: New Companies and Those in the Early Stages of Expansion:

Small Companies: Added 1.6 million net jew jobs in 1993; and 25% job growth per year from 1989 to 1993.

Large Companies: Industries dominated by large companies had a net decrease of 200,000 jobs in 1993; and Fortune 500 companies lost about 3% of their jobs from 1989 to 1993.

Comparative capital gains rates

	Percent
United States	28
Japan	(1)
France	18.1
Germany	0
South Korea	0
Taiwan	0
Singapore	0

Lesser of 1 percent of gross sale price of 20 percent of gain.

U.S. AFFILIATED INSULAR AREAS

Mr. AKAKA. I would like to engage in a colloquy with the chairman and ranking member of the Committee on Energy and Natural Resources, and my good friend, the senior Senator from Hawaii, on a matter of very great concern to me—a provision in the House reconciliation bill that is inconsistent with House and Senate Appropriations Committee actions and would eliminate our ability to meet some of the most basic needs in the U.S. affiliated insular areas.

What the House Subcommittee on Native American and Insular Affairs has proposed, and the House has accepted, may appear to many to be relatively noncontroversial—the repeal of a $27.7 million mandatory annual appropriation to the Commonwealth of the Northern Mariana Islands [CNMI] for infrastructure improvement projects. The reality, however, is that this recommendation would wreck—before it can even be implemented—a carefully negotiated bipartisan, bicameral agreement made by the Conference Committee on Appropriations for Interior and Related Agencies.

After outlining the facts in this case, I would hope and urge that the Senate conferees conclude that this proposal is misguided and must be rejected.

In the administration's budget request it was recognized that the needs of the Commonwealth of the Northern Mariana Islands for Federal financial assistance were decreasing due to local economic growth. Therefore, the level of financial assistance could be decreased. However, the Administration and the Appropriations Committees also recognized that there continue to be significant future needs and obligations to be met in other island insular areas.

The first of these other obligations is fulfilling the intent of section 103(i) of Public Law 99–239, the Compact of Free Association Act of 1985, which obligates the United States to undertake radiation mitigation measures and to resettle the people of Rongelap who were irradiated during the United States' nuclear testing program in the Marshall Islands.

Second, Public Law 99–239 also authorizes immigration from the former Trust Territory of the Pacific Islands to the United States and its territories. In recognition of the impact which this immigration would have on social services, particularly in Guam, section 104(e)(6) of Public Law 99–239 authorizes compensation to assist in offsetting the negative impacts of immigration under the compacts.

Third, economic development in remote American Samoa is still unable to generate sufficient revenue to meet all of the territory's basic needs. Of greatest concern is the Environmental Protection Agency's estimated $30 million backlog in waste water construction. If these projects are not undertaken, then the community will face an increasing risk of contamination of its groundwater, as well as destruction of its protective and productive surrounding coral reefs. In addition, American Samoa's hospital facilities are nearing the end of their useful life. The Department of the Interior and the Army Corps of Engineers estimate renovation or replacement costs for healthcare facilities to be between $20 and $60 million.

Finally, the fourth obligation facing the Federal Government with respect to the islands is fulfilling our commitment to the CNMI. In 1992, the previous administration and representatives of the CNMI reached an agreement under which the Federal Government would provide $120 million in financial assistance to the CNMI, to be matched by $120 million from the CNMI, to meet the capital infrastructure needs of their rapidly growing population and economy. From 1993 to 1995 much of these funds were provided to the CNMI under the mandatory appropriation established by section 702 of Public Law 94–241, the Covenant to Establish the Commonwealth of the Northern Marianas. However, $77 million remains to be paid under the agreement.

Given the extreme pressure on the budget, how were these needs and obligations to the islands to be met? Fortunately, the administration proposed a solution which would allow the appropriations committees to avoid the nearly impossible task of meeting these needs through large annual discretionary appropriations. The proposal, contained in the Insular Development Act (S. 638), was to reallocate the CNMI's $27.7 million mandatory annual appropriation to meet needs among all of the islands. The Energy Committee held a hearing on this bill on May 25, 1995, and the full Senate passed the bill on July 20. The Office of Management and Budget and the House and Senate Appropriations Committees supported the proposal because it would allow for significant discretionary savings.

In short, there is a solution to a set of difficult problems. The administration's original concept was adopted and modified to specify priorities and funding levels among these needs. It was then agreed to on a bipartisan basis by

the Conferees on Interior Appropriations, who could now also agree to eliminate discretionary funding to meet these needs.

Mr. President, it is with the greatest disappointment that I view the House recommendation to repeal the CNMI mandatory appropriation. This proposal completely wrecks the carefully crafted policy to meet the public health needs of Samoa, fulfill our commitment to the CNMI, compensate Guam for the negative social impacts resulting from compact immigration, and to acquit ourselves with respect to our commitments to the nuclear testing victims of Rongelap Atoll.

I would like to call on my good friend, the Senior Senator from Louisiana and the ranking member of the Committee on Energy and Natural Resources, to confirm my presentation of the facts in this matter.

Mr. JOHNSTON. The Senator is absolutely correct. The provisions of the Interior conference report were the result of weeks of careful bipartisan effort. As ranking member of the authorizing committee I have been familiar with each of these issues for many years and have shared with the Senator from Hawaii the frustration of trying to find a solution. This is why I joined with my chairman, the senior Senator from Alaska, in writing to the chairman and ranking member of the Interior Appropriations Subcommittee urging that the administration's proposal, as modified and reported by the Committee on Energy and Natural Resources, be included in the Interior appropriations bill.

I have been dealing with territorial issues since I first came to the Senate in 1972, and I can assure my colleagues that although these islands are small and remote, their needs are just as real as those of the States. We have responsibilities to U.S. citizens and nationals and citizens of the former Trust Territory that we simply cannot turn our backs on. After three long years we have finally come up with a solution to meet four of our most pressing problems in the islands. I simply cannot understand how the House justifies its proposal, which would ignore these responsibilities and commitments.

Let me reassure my colleague from Hawaii that I will do all that I can to ensure that the Senate position prevails on this matter.

Mr. AKAKA. I thank my good friend and would also like to ask the chairman of the Committee on Energy and Natural Resources, whether my understanding on these matters is correct.

Mr. MURKOWSKI. I agree with the Senator's statement. In fact, I ask unanimous consent that the letter sent by our Committee to the Interior Appropriations Subcommittee requesting the adoption of S. 638 be printed in the RECORD at this point.

There being no objection, the letter was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
COMMITTEE ON ENERGY AND NATURAL RESOURCES,
Washington, DC, July 25, 1995.

Senator SLADE GORTON,
Chairman, Subcommittee on Interior and Related Agencies, Committee on Appropriations, Washington, DC.

DEAR MR. CHAIRMAN: We are writing to you concerning the funding for the Department of the Interior's responsibilities for territories and insular areas, including the freely associated states. We are concerned over the action taken by the House in eliminating funding for staffing and for very important programs, such as technical assistance, operations and maintenance improvement, insular management control, and disaster assistance. Each of these programs, while relatively small, have proved to be of critical importance in assisting the various island governments. We understand that both the Departments of Defense and the Interior have also expressed their concern over this action.

The elimination of the salaries for all staff is perplexing. Including the FY '95 appropriation, there are over $900 million in funding for the territories and freely associated states that the Department of the Interior is responsible for. The Department has reorganized and placed responsibility under the Assistant Secretary for Policy, Management and Budget. As part of that reorganization, the core permanent staff has been reduced from 45 to 25. We believe that the staffing level should be kept to the minimum necessary to enable the Secretary to fully discharge his responsibilities. We have strongly suggested that they give serious consideration to using at least a portion of the savings to obtain details from other agencies to enhance the Department's ability to deal with problems in the islands and to reduce the need for permanent staff. We expect that further adjustments will be made in the future as the responsibilities of the Secretary change. The expected efficiency and greater emphasis on technical and financial management assistance to the areas will be completely frustrated by the House action.

We do not see how the reductions proposed by the House can be supported. As you may be aware, the Senate has passed S. 638, which in part would redirect the permissible uses of that portion of the current entitlement for the Northern Marianas not needed to meet the 1992 Agreement on future funding so that the excess could be used for long-term infrastructure planning. Those funds would also provide the ability to meet United States responsibilities in areas such as assisting in the resettlement of Rongelap. In part, the Committee felt that this action would increase the flexibility of the Appropriations Committee to address critical needs such as financial management. Enactment of that provision would also provide a significant portion of the infrastructure funding for American Samoa needed to meet critical health and safety concerns. Given the increasing pressures on the budget, we see no alternative other than reallocation of the excess CNMI funding if essential needs are to be met.

Accordingly, we urge you to reject the action taken by the House in eliminating funding for staff and for essential programs for the insular areas. If you agree with the action taken by the Senate with respect to the use of excess funding for the Northern Marianas, we suggest that you seriously consider adopting such a provision as part of the Appropriation measure.

Sincerely,

J. BENNETT JOHNSTON,
Ranking Minority Member.
FRANK H. MURKOWSKI,
Chairman.

Mr. MURKOWSKI. Let me also reassure my colleague of my strong desire to see that our agreement, as set forth in the Appropriations conference report, not be undermined by the House reconciliation proposal which contradicts that agreement.

Mr. AKAKA. I thank the Chairman for his reassurance. Mr. President, finally I would like to ask the Senior Senator from Hawaii, for his support on this matter.

Mr. INOUYE. The Senator is correct. It comes as a great disappointment to me that just as the United States was finally coming to a resolution on how to meet its obligations on these issues, the House has proposed to repeal the source of funding that had been agreed upon.

I stand with my colleagues on the authorizing and appropriations committees in urging that the Senate insist on its position in conference—that the CNMI's mandatory funding be preserved in order to implement the bipartisan, bicameral agreement to reallocate these funds as set forth in the Interior Appropriations conference report.

Mr. AKAKA. I thank my colleagues for their support in ensuring that the Senate position prevails on this issue.

Mr. KEMPTHORNE. Mr. President, I rise today in strong support of passage of the Balanced Budget Reconciliation Act of 1995. This is not only good legislation. It is historic legislation. For the first time, in a long time, Congress has the opportunity to vote for a truly balanced budget—not just a theory, not just rhetoric but an action plan to realize the goal that many thought impossible.

Only once in the past 30 years has the Federal Government had a balanced budget. Every other year we ''deficit spent'' our way toward a national debt that now stands at nearly $5 trillion dollars. That is $19,000 of debt for every man, woman and child in the United States. Because the interest on the debt is threatening to consume ever larger portions of the budget, this national debt is currently one of the greatest threats to our children's future.

For the fiscal year that ended on September 30 the Federal Government ran a deficit of $161 billion. If nothing is done, and we don't change our spending habits, that deficit will rise to $256 billion by 2002. We must stop borrowing from the future and learn to live within our means. This budget reconciliation bill gives us the blueprint to accomplish that task.

While the American people made it clear that they wanted the Federal budget balanced, they also made it clear that they wanted meaningful tax relief. The Republican leadership heard that message loud and clear. Besides balancing the Federal budget by the year 2002, the Reconciliation Act of 1995 provides the biggest tax cut in history—more than $245 billion. Of

these cuts 84 percent go to those making less than $100,000 and 70 percent go to those making less than $75,000. These tax cuts are real, significant tax relief for the families of America. For example:

A $500 per child under 18 tax credit for couples earning $110,000 or less annually.

20 percent credit of interest paid on student loans up to $500 per year, per borrower, for couples with an adjusted gross income of $60,000 or less.

Raising the income limits for eligibility for IRA's by $5,000 annually until they reach $100,000 for couples and $85,000 for singles and indexing for inflation and creating a $2,000 IRA for homemakers.

Capital gains reform that deducts 50 percent of the gain for individuals that have owned property at least 1 year, which effectively lowers the tax rate to 19.8 percent A reduction of the corporate rate on tax gains to 28 percent. Both changes are effective 10–13–95.

Estate tax reforms that will allow more Americans to continue operating family owned business after the death of the primary owner/founder. The first $1.5 million in value of family owned businesses and farms are exempt from tax and the tax on the next $3.5 million is reduced by 50 percent.

These tax cuts are both responsive and responsible solutions to the excessive taxation that is stealing the financial independence from American families across this country.

The Medicare portion of the budget reconciliation package is, in every sense of the word, true reform. It takes the current system, which is so obviously flawed and damaged beyond simple Band-Aid fixes, and transforms it into something which will truly work. It will work not only to meet the health care needs of current and future senior citizens, it will work to allow the marketplace, and therefore the people, to shape the future of health care.

We all know the level of political rhetoric which has surrounded the issue of Medicare reform. The fact remains, however, unless something is done, and done soon, Medicare will go bankrupt. This is not a political issue. This is not a matter of just whether or not Republicans want to change the system. It is a question of whether or not we have the courage to make the tough decisions needed to save the system. Simply delaying the pending bankruptcy for a couple of years will not be sufficient. We have had enough of that attitude. It is time to stand firm and to stop avoiding the difficult decisions before us. I believe the Republican Medicare reform package does just that.

The contents of the Medicare reform proposal have been significantly misrepresented. I believe it is important to point out what the measure reported out of the Finance Committee does.

The first thing the plan does is provide choice. For too long we have told this Nation's senior citizens that they may not have a choice. When they turn 65, they are placed on Medicare, whether they want it or not. Until recently, only a few were even allowed to choose managed care options instead of fee-for-service. I believe this is outrageous. To tell people in this country that they may not provide for their own health care as they see fit violates the basic principles of freedom for which so many of our seniors fought and sacrificed. Some have claimed seniors have all the choice they need, but that is simply not true. When older people are turned away from a health care provider's office because the provider no longer wishes to struggle with the regulations and bureaucracy surrounding the Medicare Program, they have no choice. This must simply change.

So what kind of choice will seniors get to make? Under the Republican proposal they can stay enrolled in the current Medicare program. Those wishing to go beyond the present system may choose from traditional fee-for-service indemnity health plans—(just like many of them had before retirement), coordinated care plans, and high-deductible health plans with medical savings accounts, also known as MSAs. In addition, the Medicare reform plan allows future enrollees to select from yet unforeseen health options as they become available, provided the plans meet minimum Federal standards. This, I would say to my colleagues, is the kind of choice most Americans already have. Do our senior citizens deserve any less?

The Medicare reform plan we are debating also addresses another issue, fraud, which Idahoans have told me should be one of the primary focal points of any reform effort. I am pleased our plan takes serious efforts to reduce health care fraud and abuse. Specifically, the bill provides for the establishment of coordinated efforts by Federal, State, and local law enforcement officials to combat fraud. The bill also instructs the Secretary of Health and Human Services to exclude individuals convicted of health care fraud from receiving payments under Medicare and Medicaid. Furthermore, the reform package would establish a new criminal statute, with specific criminal penalties, and would also increase fines and civil penalties for health care fraud.

With expanded choice and reduced fraud, one must wonder why there is so much opposition to our Medicare reform plan. I believe it stems from fear based on misinformation. In an attempt to set the record straight, I would like to take this opportunity to point out what the reform package does not do.

First, this proposal does not cut Medicare. Under the Republican plan, Medicare will continue to grow by 6.4 percent each year. Over the next 7 years, expenditures for Medicare will grow by nearly $2,000 per recipient. Only in Washington could a $2,000 increase in payments per person be labeled, by some, as a cut.

The GOP plan also does not force people to give up Medicare or to join managed care organizations. As I stated before, the plan offers seniors a choice. It lets them, rather than the Government, decide how one will receive health care. I believe this Nation's senior citizens can make those choices.

In addition, the spending reductions included in the Medicare reform package are not, and I will repeat this, are not, related to a tax cut. The bill explicitly states that savings generated from reforming the Medicare system may not be used for any purpose other than saving and preserving the Medicare system. Whether or not we adopt any tax cuts, we need these savings to preserve the system for current and future recipients.

Finally, to those who say smaller savings would be sufficient, I would ask them to define ''sufficient.'' While the Democrat's proposal would prevent the system from going bankrupt in 2002, as it is currently on a pace to do, it would allow the system to fail only 2 years later. This attitude of ''put it off until it is someone else's problem'' is precisely why the United States is in the economic mess it is. As the Medicare trustee's said, ''prompt, effective, and decisive action is necessary.'' Simply delaying the inevitable is not a solution.

I was pleased to note that my hometown newspaper, The Idaho Statesman, shares this view. In a recent editorial the newspaper stated, ''Without enormous changes like those proposed by the GOP, the program will go broke soon after the turn of the century.'' The editorial went on to say, ''somebody finally has the courage to begin fixing what's been broken for a long time.''

Since before I first came to the Senate, Idahoans have told me they want Congress to face the important issues head on, to try to set this country on solid economic footing. The Medicare reform plan which the Senate Finance Committee approved does just that. It will not be easy, and it will not be painless, but it will achieve our goals. It will correct the financial difficulties the program faces, bring the efficiencies of the market into play, and give senior citizens the freedom to choose.

The Idaho Statesman's editorial ended with the following statement, ''The numbers clearly show that Medicare, which served one generation well, cannot serve the next one without significant reform.'' The Republican package is just that, significant, and serious, reform.

The Finance Committee has also used this bill as a vehicle to redirect and energize the earned income tax credit. The EITC is a well-conceived and well-intended program designed to encourage work over welfare for low-income families. Unfortunately this worthy intent has been lost in what has become the fastest growing entitlement program we have. Just since 1986 it has grown from 7 million families receiving an average of $281 to 18 million

families receiving an average of $1,265. The EITC no longer benefits only families with children but provides benefits to both individuals and families without children.

The Senate proposal redirects the EITC back to the truly needy, reduces the potential for fraud and abuse and puts money where we need it, in the hands of low income families with children. We will increase spending on the intended beneficiaries at the same time we save the taxpayers more than $32 billion.

I ask my colleagues to join me in supporting the Balanced Budget Reconciliation Act. It is good, smart legislation that demonstrates to the American taxpayer that Republicans are serious about changing the business as usual attitude in Congress.

S-CORPORATION REFORM

Mr. PRYOR. Mr. President, as many of my colleagues are aware, there are a number of tax issues of significant importance to the 1.9 million American businesses that are S corporations that did not get resolved during the Finance Committee markup last week. Many of those issues—which include the current law's severe limitations on capital formation, growth, corporate streamlining, family business planning, estate planning, and tax simplifaction—are addressed in a bill I introduced earlier this year with my colleague from Utah, Senator HATCH. That bill, S. 758, the S Corporation Reform Act of 1995, has the bipartisan cosponsorship of a third of the Senate.

While it is unfortunate that none of the provisions of S. 758 were included in the bill reported by the Finance Committee and made part of the Budget Reconciliation Bill that is before us, I am pleased to note that many of these provisions were included in the tax bill passed by the House Ways and Means Committee.

Mr. HATCH. Mr. President, I, too, share the concerns of my colleague from Arkansas and see S corporation reform as an important step in helping this nation's S corporations stay competive and grow. I firmly believe that S corporation reform is long overdue, and hope that we can work through the conference process and during the rest of this legislative session, not simply to adopt the key S corporation simplification provisions that have already been included in the House bill, but also to address and include several additional provisions that are critical components of S. 758.

Mr. PRYOR. Mr. President, I agree with my colleague from Utah. Specifically, I believe that it is very important that we extend the S corporation reform initiative in the budget process to include all the items in the House bill, as well as such provisions as:

The ability of S corporations to issue preferred stock and general convertible debt;

The ability of S corporations to form ESOPs, so their employees can share in the success of the business;

The ability of financial institutions to be shareholders of an S corporation's stock, which is often a critical element of obtaining financing for corporate growth; and

The ability of all members of a family to be counted as a single shareholder of an S corporation, since family-owned S corporations are frequently stifled as they continue to grow from one generation to the next.

I hope that these issues will be on the table for discussion, and that my colleagues will be willing to help S corporations—most of which are small and/or family owned businesses—be more effective competitors in the marketplace.

Mr. HATCH. Mr. President, I understand the concerns of my colleague from Arkansas, and also hope that we will be able to resolve these and other critical issues in conference. I will be working closely with Senator PRYOR in the coming weeks on these very important legislative objectives.

Mr. WARNER. Mr. President, seeing no other Senators seeking recognition, I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. BENNETT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. THURMOND. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. THURMOND. Mr. President, I rise in support of the Balanced Budget Reconciliation Act of 1995 which, for the first time in many years, controls entitlement spending, restrains the growth of Government and eliminates annual deficits.

What a refreshing contrast this balanced budget reconciliation bill is to the budget proposals submitted over the past 2 years by the President. Those budgets enacted the largest tax increase in history, contained no plan to balance the budget, significantly increased the national debt, failed to restrain growth in nondefense Government spending and proposed dangerous reductions in national defense spending.

Mr. President, the Balanced Budget Reconciliation Act of 1995 reverses direction on those policies which are strapping our economy and burdening all Americans with an overwhelming national debt.

I remind my colleagues that the national debt now stands at over $4.9 trillion. Outlays for interest on the public debt is well over $300 billion per year, exceeding outlays for any other Government Department or program, except Social Security.

Furthermore, failure to adopt this reconciliation act will result in annual deficits exceeding $200 billion for as far as can be projected. That is not an acceptable alternative. We must reduce Government spending. We must eliminate these annual deficits, and we must reduce the national debt. The Balanced Budget Reconciliation Act puts us on track to accomplish those objectives.

Mr. President, I support the Balanced Budget Reconciliation Act of 1995. I vote yes for reducing the deficit. I vote yes for controlling the growth of Government spending. I vote yes for our families by reducing their tax burden. I vote yes for restoring the economic future of our Nation. Therefore, I will vote yes for this bill and encourage my colleagues to do likewise.

Mr. EXON. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. COHEN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COHEN. Mr. President, I was here listening to the distinguished Senator from South Carolina talking a moment ago. As always, I am impressed with his vigor, vitality, and enthusiasm and, indeed, his stamina.

I also found myself in agreement with much, if not most, of what he was saying. I agree that we should vote yes on deficit reduction, and I see my friend from New Mexico here. I want to tell him how much I admire him personally, the job he has done and the work that he has put in over the years on the Budget Committee, the years he has spent dedicating himself to budget reductions and trying to achieve a balanced budget for this country. So I do not want him in any way to regard the comments I might make in the next few moments as being in derogation of my respect and admiration for him.

I agree with what Senator THURMOND said; we have to vote yes on deficit reduction. I believe that. I believe we have to vote yes on cutting spending. I believe we have to vote yes on reforming programs which have heretofore been regarded as untouchable, being third rails we cannot touch. I think we have reached the point in our history where we have to look at virtually every program and not decide that any of them are immune from reform, from trimming, from cutting, maybe even elimination.

But there are other items in this package that I do not support. I do not support drilling in ANWR. I do not support opening that up. I do not, frankly, support calling for tax reductions at a time when we are calling for deep budget cuts. For me, it is the equivalent of putting our foot on the brake and putting our foot on the pedal at the same time. It is a personal decision on my part. I feel that I can support virtually all the cuts that are necessary to achieve a balanced budget by the year 2002.

I was pleased to hear President Clinton indicate that he, No. 1, believes we should strive for a balanced budget. Initially he said 10 years, then it was 9 years, and now I believe it is even 7

years. I think that is quite a concession on his part, that he agrees that we ought to have a balanced budget within a 7-year timeframe.

The dilemma that I face is like that of several other of my colleagues. This may be the only vehicle to date that we have for achieving a balanced budget by the year 2002. This may be only part of the process that is underway.

This may be act II of a three-part drama that has to be played out that was initiated by the Contract With America, as being part one in its adoption, and part two being our deliberations and debate, and, ultimately, votes here in the Senate and conference with the House, to present a package that will be sent to the President that most, if not all, of us anticipate will be vetoed by the President because it does not include some of his priorities. That may be act II.

Ultimately, we have to come to act III, which is where we sit down with the President and work out our differences—again, being committed to a balanced budget by the year 2002.

So I will listen with some interest as we proceed throughout the evening and into tomorrow as to whether or not I can support the final package. But I indicate today, as I did last evening, I think it is inappropriate that we have massive tax reductions at a time when we are trying to balance the budget and cut the deficit to achieve a balanced budget by the year 2002. And so I intend to support various amendments that will be offered.

I may, in fact, offer an amendment to strike the tax cuts in their entirety. But it may be that that matter has already been debated long enough on the Senate floor. It is my personal judgment that we ought to do everything we can to make the reductions that we have long deferred in making, that we ought to do it within a 7-year timeframe, that we should support our chairman in his efforts for what he has done to produce that.

But I must say, Mr. President, that I have great reservations about calling for substantial tax reductions at the same time we are asking for substantial cutbacks in programs.

So I will listen with interest as we proceed throughout the evening and tomorrow. But I indicate my great admiration and respect for Senator DOMENICI and the effort he has undertaken to produce a reconciliation package that, perhaps, is only part two or act II of the three-act drama that has to be played out.

The PRESIDING OFFICER. The 15 minutes called for under the previous order has expired.

Mr. DOMENICI. Parliamentary inquiry, Mr. President. Is Senator BROWN's amendment before the Senate, on which he has 5 minutes?

The PRESIDING OFFICER. The Senator needs to call that amendment up.

AMENDMENT NO. 2969

(Purpose: To provide that the $1,000,000 limit on deductibility of compensation paid to an employee is extended to employees of all businesses, and to use the resulting revenues to reduce the Social Security earnings penalty)

Mr. BROWN. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Colorado [Mr. BROWN], for himself, Mr. ABRAHAM, Mr. SANTORUM, Mr. MCCAIN, and Mr. CRAIG, proposes an amendment numbered 2969.

Mr. BROWN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . $1,000,000 COMPENSATION DEDUCTION LIMIT EXTENDED TO ALL EMPLOYERS OF ALL CORPORATIONS.

(a) IN GENERAL.—Section 162(m) is amended—

(1) by striking ''publicly held corporation'' in paragraph (1) and inserting ''taxpayer (other than personal service corporations)'',

(2) by striking ''covered employee'' each place it appears in paragraphs (1) and (4) and inserting ''employee'', and

(3) by striking paragraphs (2) and (3) and redesignating paragraph (4) as paragraph (3).

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995, except that there shall not be taken into account with respect to any employee to whom section 162(m) of the Internal Revenue Code of 1986 applies solely by reason of such amendments remuneration payable under a written binding contract which was in effect on October 25, 1995, and which was not modified thereafter in any material respect before such remuneration is paid.

(c) USE OF REVENUES.—Notwithstanding any other provision of law, the Commissioner of Social Security shall increase the earnings limit otherwise determined for each year under section 203 of the Social Security Act (42 U.S.C. 403) by an amount which takes into account the increase in revenues for such year as estimated by the Secretary of the Treasury resulting from the amendment to section 162(m)(3) of the Internal Revenue Code of 1986 made by the Balanced Budget Reconciliation Act of 1995.

Mr. BROWN. Mr. President, this is a very straightforward amendment, and it deals with an area this Congress legislated on in 1993.

In 1993, Congress passed a tax provision that placed a limitation of a million dollars on the deductibility for publicly held corporations. The limit of a million dollars was on the amount they could deduct on the salary of an employee of that corporation.

I might say, just in retrospect, that statute had other provisions. In other words, it was possible to earn over a million dollars and have it deductible but only if it was incentive pay or fit into other provisions. So it is not an absolute limitation. But that limitation, in this Senator's view, was somewhat limited and deficient. It was deficient in that it was not applied evenhandedly, fairly; it was not applied to everybody who had a salary in excess of a million dollars; it was only applied to a special few. So the suggestion of the first half of this amendment is simply to be evenhanded and apply that same limitation to employees of all businesses. Again, the tax is on the business, not on the employees.

Mr. President, I might say two important things here. We have not changed any of the exceptions to this provision. In other words, included in it was a provision that allowed incentive payments, and so on. None of that has been changed.

In addition, included here is a provision that prohibits them from being retroactive. That is, if you have an employment contract signed prior to today, that is valid and not affected by this provision. But it does raise, according to the preliminary estimates we have, $800 million. That $800 million, according to the amendment, is then used to ameliorate the impact of the penalty on Social Security tax.

As I think Senators are well aware right now, above the threshold level a very high tax is placed on Social Security recipients, many of whom are not wealthy at all, but are low-income or middle-income and struggling, and they are put into a very difficult penalty situation. So this is a net, even with regard to tax revenue to the Federal Government.

What it does is take that $800 million that will be raised and use it to offset the earnings penalty. It will not eliminate the Social Security earnings penalty. My guess is it will only have a small affect on it. It will only increase the threshold a small amount of money. But that amount of money will go to working men and women, who retire without adequate resources and need that money and need to work to make their household expenses fit.

In my view, it is an excellent transfer. It applies even tax philosophy to those who receive over a million dollars in compensation. It provides evenhandedly and uses the money to ameliorate that Social Security earnings penalty that is so burdensome for so many working people.

Mr. President, I reserve the remainder of my time.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, we have reviewed the amendment and checked it with the Finance Committee sources. I am prepared to yield back the full 5 minutes in order to move this thing along. Once again, I would like to take the opportunity to thank the chairman of the committee for his diligence and consideration, in allowing a 15-minute discussion period when we worked this out.

Let me say this. We have unnecessarily delayed the process here, though, because both sides have not been as forthcoming as I think we

should be—or that we intend to be, for that matter—in supplying copies of the amendments to the other side. I am not saying it is just on your side, it is on our side as well.

Suffice to say, I am ready to yield the remainder of my time. I believe—if the chairman agrees—that would take us to the Harkin amendment.

Mr. ROCKEFELLER. Will the Senator yield?

Mr. EXON. Yes.

Mr. ROCKEFELLER. Mr. President, simply to affirm what the Senator from Nebraska says, I think it is, in fact, part of the agreement between the leaders that we will know what we are voting on, that we will have copies of these amendments. I have a list here of 17 of what are called Republican amendments, and three of them are question marks. There are all kinds of words. There is a word that says kickback, one that says taxes, health care, sugar. There is no way to make any kind of a judgment.

So I just affirm the view of the ranking member of the Budget Committee that we need to have these amendments. It is part of the agreement that we would have these amendments and our amendments in writing before we act on them.

Otherwise we are just singing in the dark.

Mr. BROWN. Mr. President, I yield back the balance of my time and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second. The yeas and nays are ordered.

AMENDMENT NO. 2970

(Purpose: To strengthen efforts to combat Medicare waste, fraud and abuse)

Mr. EXON. Mr. President, I believe the next amendment in order is the amendment to be offered by the Senator from Iowa, Mr. HARKIN.

Mr. HARKIN. Parliamentary inquiry, Mr. President. How much time do we have?

The PRESIDING OFFICER. The Senator has 5 minutes.

Mr. HARKIN. I have an amendment that I am sending to the desk, and I ask for immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Iowa [Mr. HARKIN], for himself, Mr. GRAHAM and Mr. BIDEN, proposes an amendment numbered 2970.

Mr. HARKIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. HARKIN. I yield myself 2 minutes.

Mr. President, if you believe that waste, fraud and abuse in Medicare is just a small problem, then you want to just support the bill and the Abraham amendment that was added to it and vote ''no'' on this amendment.

If you have followed the hearings that I have held over the last 5 years showing that what GAO says amounts up to 10 percent of Medicare spending goes for waste, fraud and abuse, this is up to $17 billion a year.

If you have followed those hearings or read the numerous GAO and Inspector General reports, then you know we just cannot go after the small things in waste, fraud and abuse. We have to go after the big game. We have to take a truly comprehensive approach to combatting this bilking of the taxpayers and our elderly.

Now, the bill has some good provisions in it. I will not deny that. The Abraham amendment which I voted for is also pretty good. But that just takes a nick out of it. What we have to do is go after it with every thing we can. The taxpayers and the elderly deserve no less.

My amendment, cosponsored by Senators GRAHAM and BIDEN, both of whom who have worked hard to tackle this problem, makes a number of important changes. It requires Medicare within 6 months must use state-of-the-art commercial software to find billing abuse. GAO estimated the first full year savings of making this common sense idea at $640 million.

Next, my amendment prohibits Medicare payments for unnecessary and inappropriate items like fines owed by health care providers for violations of Federal, State or local laws, personal auto use, tickets to sporting events, entertainment, and other things like that. Believe it or not, Medicare still has no specific prohibition against paying for those kind of items.

Third, my amendment reforms payments to ambulances as recommended by the inspector general. It also reduces paperwork by requiring a standardized claim form for Medicaid and Medicare.

Most important, and the heart and soul of this, it requires competitive bidding for durable medical equipment, medical supplies, and oxygen paid for by Medicare. The Veterans Administration has been doing this a long time and the difference in payments is dramatic.

How can you say you do not support it in Medicare when you have it in the VA, when the VA spends 4 cents for the same bandage that Medicare spends 86 cents for? Oxygen—Medicare spends $3,600 for rental of oxygen; the Veterans Administration pays less than half that.

That is because the Veterans Administration has competitive bidding and Medicare does not. It is time we have good old competitive bidding in Medicare. That is what this amendment does.

I yield 1 minute to the Senator from Delaware.

Mr. BIDEN. I compliment the Senator from Iowa.

Put bluntly, there is no legitimate reason not to be for this amendment. None. Zero. None. I challenge anyone to tell us why this amendment does not make sense.

Going after fraud should be our top priority, our first priority. The bill makes progress but it does not go far enough.

At least it is not what the Gingrich bill in the House does which makes it easier for health care providers to engage in fraud. Literally, not figuratively.

Last, the point made by the Senator, there is $18 billion in Medicare fraud a year and $16 billion in Medicaid fraud a year. I see no legitimate rationale for not tightening this up unless there is some outrageous special interest that thinks it would benefit from it. I see none. Prosecutors want it. Prosecutors ask for it.

I held a hearing in my State where I had the top prosecutors from Philadelphia and the top prosecutors from the State of Delaware. They point out that the House bill, which set them back decades—this bill would not do much. Our bill would make a significant impact on their ability to deal with health care fraud.

I thank my colleague for his leadership and allowing me the minutes.

The PRESIDING OFFICER. The Senator has 1 minute and 30 seconds remaining.

Mr. HARKIN. I will reserve my time if the other side wants to speak.

Mr. DOMENICI. I yield 5 minutes in opposition to Senator COHEN.

Mr. COHEN. Mr. President, ordinarily I find myself in agreement with the Senator from Iowa, dealing with health care fraud, but I must say in this particular circumstance I have to rise in opposition, not because I am opposed to what he is seeking to do but rather I believe that while his proposal for addressing fraud and abuse in the health care system has merit, they also compromised some of the more important facets of the health care fraud bill we were successful in including in the Finance Committee package as such.

For the past several years, we have been holding hearings. As a matter of fact, it was a report that the minority staff issued on health care fraud which produced the estimates from GAO, as well as our own staff, showing that there is $100 billion being lost annually in our health care system.

As far as the Federal portion of that, it is anywhere from $27 to $40 million, depending on which Federal programs are included. We are losing billions of dollars through our health care system through fraud now.

What we have tried to do in the proposal that was agreed to by the Finance Committee is to structure it in a way that actually produces savings—this $4.2 billion.

The amendment of the Senator from Iowa, as I understand it—unfortunately, because of the time limitations we have, I believe some of my provisions have been deleted that are in the health care fraud bill. I am advised that CBO has concluded that this dilutes some of the $4.2 billion in savings.

One of the justifications for persuading the Finance Committee to include the health care fraud bill that I had authored was to get some savings. CBO now scores it at $4.2 billion. This at least raises a question as to whether or not we have diluted that and it calls into question in terms of how much we will save.

The Senator from Iowa may use a different method of calculating those savings.

What we have tried to do is structure it in a way which we could get the provider groups to agree. This has been no easy task. We have met with provider groups, with consumers, with health care advocates, with the FBI, with the Justice Department, with the White House.

We put together a package which we believe enjoys broad support which has been scored as saving $4.2 billion. Under these circumstances, I find myself compelled to rise in opposition not because I am opposed to what the Senator from Iowa seeks to do, but by virtue of the fact this may undermine to some degree and dilute to some degree, which I do not know what extent, the $4.2 billion which has currently been scored by CBO.

For those reasons I rise in opposition to the amendment of the Senator.

The PRESIDING OFFICER. The Senator from New Mexico has 1 minute and 50 seconds and the Senator from Iowa has 1 minute and 14 seconds.

Mr. HARKIN. I yield 30 seconds to the Senator from Nebraska.

Mr. EXON. Mr. President, I am somewhat disappointed. I thought this was perhaps one amendment that we could get Republican agreement on.

This is a good amendment. There may be reasons to oppose it, but I do not know what they are and they have not been explained to me.

Mr. HARKIN. I am befuddled, Mr. President, because I say to my friend from Maine, the CBO—which I want on the record—the CBO has scored our amendment as saving more money than is in the bill. I want that on the record. That is so.

We did not weaken the provisions in the bill, we significantly strengthened them. For example, as I pointed out, we require the commercial software, we reduce the paperwork by having one claim form. We required the competitive bidding and we prohibit the Medicare payments for unnecessary things like personal use of automobiles, tickets to sporting events, things like that.

And CBO has certified that this amendment saves more money than the underlying bill's provisions.

Mr. COHEN. We are basically in accord with what we are seeking to do, but I have been advised that CBO indicates this would reduce the $4.2 billion by——

Mr. HARKIN. Absolutely not. CBO said today it would save $4.7 billion, considerably more than the underlying bill. Let there be no question about that.

The PRESIDING OFFICER. The time of the Senator from Iowa is expired.

Mr. DOMENICI. I yield back the balance of our time.

Mrs. MURRAY. Mr. President, the Harkin amendment to remove fraud and abuse from Medicare is a giant step in the right direction—saving taxpayer money, urging us toward a balanced budget, and striving for greater efficiency.

However, the amendment is based on a concept both necessary and controversial. This amendment would require competitive bidding for Medicare part B items and services.

I have heard from owners of numerous medical supply businesses in my State who tell me they will be driven out of business by this amendment provision. They tell me services will be cut to rural areas. They tell me services involved with setting up and instructing about medical equipment is essential for patients, and will be threatened under this amendment.

Senator HARKIN has made changes to his amendment language, to maintain access to services for rural and underserved areas. He has made changes to assure quality assurance standards, so that large companies are not able to undercut their competition simply by providing shoddy supplies and equipment.

He points out the large difference between prices for supplies at Veterans Administration hospitals—which have competitive bidding—and prices from providers under Medicare part B. He makes a good case for solving some of our Medicare cost problems with a clear goal to find efficiency through competitive bidding, rather than just a budget decision.

In light of these changes, I will vote for the amendment, but I want to be sure that we are doing everything we can to make this transition survivable for small business.

Mr. GRAHAM. Mr. President, I ask unanimous consent for 10 seconds in order to have items printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, I would like to have printed in the RECORD various documents, including a letter from the inspector general of the Department of HHS and statements by the Secretary of the Department and the Attorney General. They all go to the point that we need to have as strong an antifraud position as possible in the Senate version of the Medicare bill, because the House version is woefully weak. I support the joint efforts of my colleagues from Iowa and Maine in assuring that goal.

Mr. President, I ask unanimous consent the documents be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

DEPARTMENT OF HEALTH AND HUMAN SERVICES, OFFICE OF INSPECTOR GENERAL,

Washington, DC, September 29, 1995.

Re H.R. 2389: ''Safeguarding Medicare Integrity Act of 1995.''

Hon. BOB GRAHAM,
U.S. Senate,
Washington, DC.

DEAR SENATOR GRAHAM: You requested our views regarding the newly introduced H.R. 2389, which we understand may be considered in the deliberations concerning the ''Medicare Preservation Act.'' We strongly support the expressed objective of H.R. 2389 of reducing the fraud and abuse which plagues the Medicare program. The proposed legislation contains some meritorious provisions. However, if enacted, certain major provisions of H.R. 2389 would cripple the efforts of law enforcement agencies to control health care fraud and abuse in the Medicare program and to bring wrongdoers to justice.

The General Accounting Office estimates the loss to Medicare from fraud and abuse at 10 percent of total Medicare expenditures, or about $18 billion. We recommend two steps to decrease this problem: strengthen the relevant legal authorities, and increase the funding for law enforcement efforts. Some worthy concepts have been included in H.R. 2389, and we support them. For example, we support:

A voluntary disclosure program, which allows corporations to blow the whistle on themselves if upper management finds wrongdoing has occurred, with carefully defined relief for the corporation from qui tam suits under the False Claims Act (but not waiver by the Secretary of sanctions);

Minimum periods of exclusion (mostly parallel with periods of exclusion currently in regulations) with respect to existing exclusion authorities from Medicare and Medicaid; and

Increases in the maximum penalty amounts which may be imposed under the civil monetary penalty laws regarding health care fraud.

As stated above, however, H.R. 2389 contains several provisions which would seriously erode our ability to control Medicare fraud and abuse, including most notably: making the civil monetary penalty and anti-kickback laws considerably more lenient, the unprecedented creation of an advisory opinion mechanism on intent-based statutes, and a trust fund concept which would fund only private contractors (not law enforcement). Our specific comments on these matters follow.

1. MAKING CIVIL MONETARY PENALTIES FOR FRAUDULENT CLAIMS MORE LENIENT BY RELIEVING PROVIDERS OF THE DUTY TO USE REASONABLE DILIGENCE TO ENSURE THEIR CLAIMS ARE TRUE AND ACCURATE

Background: The existing civil monetary penalty (CMP) provisions regarding false claims were enacted by Congress in the 1980's as an administrative remedy, with cases tried by administrative law judges with appeals to Federal court. In choosing the ''knows or should know'' standard for the mental element of the offense, Congress chose a standard which is well defined in the *Restatement of Torts. Second,* Section 12. The term ''should know'' places a duty on health care providers to use ''reasonable diligence'' to ensure that claims submitted to Medicare are true and accurate. The reason this standard was chosen was that the Medicare system is heavily reliant on the honesty and good faith of providers in submitting their claims. The overwhelming majority of claims are never audited or investigated.

Note that the ''should know'' standard does not impose liability for honest mistakes. If the provider exercises reasonable diligence and still makes a mistake, the provider is not liable. No administrative complaint or decision issued by the Department

of Health and Human Services (HHS) has found an honest mistake to be the basis for CMP sanction.

H.R. 2389 Proposal: Section 201 would redefine the term ''should know'' in a manner which does away with the duty on providers to exercise reasonable diligence to submit true and accurate claims. Under this definition, providers would only be liable if they act with ''deliberate ignorance'' of false claims or if they act with ''reckless disregard'' of false claims. In an era when there is great concern about fraud and abuse of the Medicare program, it would not be appropriate to relieve providers of the duty to use ''reasonable diligence'' to ensure that their claims are true and accurate.

In addition, the bill treats the CMP authority currently provided to the Secretary in an inconsistent manner. On one hand, it proposes an increase in the amounts of most CMPs which mnay be imposed under the Social Security Act. Yet, it would significantly curtail enforcement of these sanction authorities by raising the level of culpability which must be proven by the Government in order to impose CMPs. It would be far preferable not to make any changes to the CMP statutes at this time.

2. MAKING THE ANTIKICKBACK STATUTE MORE LENIENT BY REQUIRING THE GOVERNMENT TO PROVE THAT THE SIGNIFICANT INTENT OF THE DEFENDANT WAS UNLAWFUL

Background: The anti-kickback statute makes it a criminal offense knowingly and willfully (intentionally) to offer or receive anything of value in exchange for the referral of Medicare or Medicaid business. The statute is designed to ensure that medical decisions are not influenced by financial rewards from third parties. Kickbacks result in more Medicare services being ordered than otherwise, and law enforcement experts agree that unlawful kickbacks are very common and constitute a serious problem in the Medicare and Medicaid programs.

The two biggest health care fraud cases in history were largely based on unlawful kickbacks. In 1994, National Medical Enterprises, a chain of psychiatric hospitals, paid $379 million for giving kickbacks for patient referrals, and other improprieties. In 1995, Caremark, Inc, paid $161 million for giving kickbacks to physicians who ordered very expensive Caremark home infusion products.

Most kickbacks have sophisticated disguises, like consultation arrangements, returns on investments, etc. These disguises are hard for the Government to penetrate. Proving a kickback case is difficult. There is no record of trivial cases being prosecuted under this statute.

H.R. 2389 Proposal: Section 201 would require the Government to prove that ''the significant purpose'' of a payment was to induce referrals of business. The phrase ''the significant'' implies there can only be one ''significant'' purpose of a payment. If so, at least 51 percent of the motivation of a payment must be shown to be unlawful. Although this proposal may have a superficial appeal, if enacted it would threaten the Government's ability to prosecute all but the most blatant kickback arrangements.

The courts interpreting the anti-kickback statute agree that the statute applies to the payment of remuneration ''if *one purpose* of the payment was to induce referrals.'' *United States* v. *Greber,* 760 F.2d 68, 69 (3d Cir. 1985) (emphasis added). If payments were intended to induce a physician to refer patients, the statute has been violated, even if the payments were also intended (in part) to compensate for legitimate services. Id. at 72. See also: *United States* v. *Kats,* 871 F.2d 105, 108 (1989); *United States* v. *Bay State Ambulance,* 874 F.2d 20, 29–30 (1st Cir. 1989).

The proposed amendment would overturn these court decisions.

However, the nature of kickbacks and the health care industry requires the interpretation adopted by Greber and its progeny. To prove that a defendant had the improper intent necessary to violate the anti-kickback statute, the prosecution must establish the defendant's state of mind, or intent. As with any intent-based statute, the prosecution cannot get directly inside the defendant's head. The prosecution must rely on circumstantial evidence to prove improper intent. Circumstantial evidence consists of documents relevant to the transaction, testimony about what the defendant said to business associates or potential customers, etc. These types of evidence are rarely clear about the purposes and motivations of the defendant. The difficulties of establishing intent are multiple by the complexity, size, and dynamism of the health care industry, as well as the sophistication of most-kickback scheme participants. Documents are ''pre-sanitized'' by expert attorneys. Most defendants are careful what they say. In most kickback prosecutions, the Government has a difficult task to prove beyond a reasonable doubt that even one purpose of a payment is to induce referrals.

If the Government had to prove that inducement of referrals was ''the significant'' reason for the payment, many common kickback schemes would be allowed to proliferate. In today's health care industry, very few kickback arrangements involve the bald payment of money for patients. Most kickbacks have sophisticated disguises. Providers can usually argue that any suspect payment serves one or more ''legitimate purposes.'' For example, payments made to induce referrals often also compensate a physician who is providing health care items or services. Some payments to referral sources may be disguised as returns on investments. Similarly, many lease arrangements that indisputably involve the bona fide use of space incorporate some inducement to refer in the lease rates. In all of these examples, and countless others, it is impossible to quantify what portions of payments are made for nefarious versus legitimate purposes.

Where the defendant could argue that there was some legitimate purpose for the payment, the prosecution would have to prove beyond a reasonable doubt, through circumstantial evidence, that the defendant actually had another motive that was ''the significant'' reason. For the vast majority of the present-day kickback schemes, the proposed amendment would place in insurmountable burden of proof on the Government.

3. CREATION OF AN EASILY ABUSED EXCEPTION FROM THE ANTI-KICKBACK STATUTE FOR CERTAIN MANAGED CARE ARRANGEMENTS

Background: There is great variety and innovation occurring in the managed care industry. Some managed care organizations, such as most health maintenance organizations (HMOs) doing business with Medicare, consist of providers who assume financial risk for the quantity of medical services needed by the population they serve. In this context, the incentive to offer kickbacks for referrals of patients for additional services is minimized, since the providers are at risk for the additional costs of those services. If anything, the incentives are to reduce services. Many other managed care organizations exist in the fee for service system, where the traditional incentives to order more services and pay kickbacks for referrals remain. In the fee for service system, the payer (like Medicare and private insurance plans) is at financial risk of additional services, not the managed care organization. While broad protection from the anti-kick statute may be appropriate for capitated, at-risk entities like the HMO described above, such protection for managed care organizations in the fee for service system would invite serious abuse.

H.R. 2389 Proposal: Section 202 would establish broad new exceptions under the anti-kickback statute for ''any capitation, risk-sharing, or disease management program.'' The lack of definition of these terms would result in a huge opportunity for abusive arrangements to fit within this proposed exception. What is a ''disease management program?'' Does not that term include most of health care?

Nefarious organizations could easily escape the kickback statute by simply rearranging their agreements to fit within the exception. For example, if a facility wanted to pay doctors for referrals, the facility could escape liability by establishing some device whereby the doctors share in the business risk of profit and loss of the business (i.e., they would share some risk, at least theoretically). Then, the organization could pay blatant kickbacks for every referral with impunity.

If the concern is that the kickback statute is hurting innovation, as observed above, there is now an explosion of innovation in the health care industry, especially in managed care. No one in Government is suggesting that HMOs or preferred provider arrangements, etc., formed in good faith, violate the kickback statute. There has never been any action against any such arrangement under the statute.

4. INAPPROPRIATE EXPANSION OF THE EXCEPTION TO THE ANTI-KICKBACK STATUTE FOR DISCOUNTS

Background. Medicare/Medicaid discounts are beneficial and to be encouraged with one critical condition: That Medicare and/or Medicaid receive and participate fully in the discount. For example, if the Medicare reasonable charge for a Part B item or service is $100, Medicare would pay $80 of the bill and the copayment would be $20. If a 20 percent discount is applied to this bill, the charge should be $80, and Medicare would pay $64 (80 percent of the $80) and the copayment would be $16. If the discount is *not* shared with Medicare (which would be improper), the bill to Medicare would falsely show a $100 charge. Medicare would pay $80, but the copayment would be $0. This discount has not been shared with Medicare.

Many discounting programs are designed expressly to transfer the benefit of discounts away from Medicare. The scheme is to give little or no discount on an item or service separately billed to Medicare, and give large discounts on items *not* separately billed to Medicare. This scheme results in Medicare paying a higher percentage for the separately billed item or service than it should.

For example, a lab offers a deep discount on lab work for which Medicare pays a predetermined fee (such as lab tests paid by Medicare to the facility as part of a bundled payment), if the facility refers to the lab its separately billed Medicare lab work, for which no discount is given. The lab calls this a ''combination'' discount, yet is a discount on some items and not on others. Another example is where ancillary or noncovered items are furnished free, if a provider pays full price for a separately billed item, such as where the purchase of incontinence supplies is accompanied by a ''free'' adult diaper. Medicare has not shared in these combination discounts.

H.R. 2389 Proposal. Section 202 would permit discounts on one item in a combination to be treated as discounts on another item in the combination. This sounds innocent, but it is not. Medicare would be a big loser. Discounting should be permissable for a supplier

to offer a discount on a combination of items or services, so long as every item or service separately billed to Medicare or Medicaid receives no less of a discount than is applied to other items in the combination. If the items or services separately billed to Medicare or Medicaid receive *less* of a discount than other items in the combination, Medicare and Medicaid are not receiving their fair share of the discounts.

5. UNPRECEDENTED MECHANISM FOR ADVISORY OPINIONS ON INTENT-BASED STATUTES, INCLUDING THE ANTI-KICKBACK STATUTE

Background: The Government already offers more advice on the anti-kickback statute than is provided regarding any other criminal provision in the United States Code.

Industry groups have been seeking advisory opinions under the anti-kickback statute for many years, with vigorous opposition by the Department of Justice (DOJ), and the HHS Office of Inspector General (OIG) under the last three administrations, as well as the National Association of Attorneys General. In 1987, Congress rejected calls to require advisory opinions under this statute. As a compromise, Congress required HHS, in consultation with the Attorney General, to issue ''safe harbor'' regulations describing conduct which would not be subject to criminal prosecution or exclusion. See Section 14 of Public Law 100–93.

To date, the OIG has issued 13 final anti-kickback ''safe harbor'' rules and solicited comment on 8 additional proposed safe harbor rules, for a total of 21 final and proposed safe harbors. Over 50 pages of explanatory material has been published in the Federal Register regarding these proposed and final rules. In addition, the OIG has issued six general ''fraud alerts'' describing activity which is suspect under the anti-kickback statute. Thus, the Government gives providers guidance on what is clearly permissible (safe harbors) under the anti-kickback statute and what we consider illegal (fraud alerts).

H.R. 2389 Proposal. HHS would be required to issue advisory opinions to the public on the Medicare/Medicaid anti-kickback statute (section 1128B(b) of the Social Security Act), as well as all other criminal authorities, civil monetary penalty and exclusion authorities pertaining to Medicare and Medicaid. HHS would be required to respond to requests for advisory opinions within 30 days.

HHS would be authorized to charge requesters a user fee, but there is no provision for this fee to be credited to HHS. Fees would therefore be deposited in the Treasury as miscellaneous receipts.

Major problems with anti-kickback advisory opinions include:

Advisory opinions on intent-based statutes (such as the anti-kickback statute) are impractical if not impossible. Because of the inherently subjective, factual nature of intent, it would be impossible for HHS to determine intent based solely upon a written submission from the requestor. Indeed, it does not make sense for a requestor to ask the Government to determine the requestor's own intent. Obviously, the requester already knows what their intent is.

None of the 11 existing advisory opinion processes in the Federal Government provide advisory opinions regarding the issue of the requestor's intent. An advisory opinion process for an intent-based statute is without precedent in U.S. law.

The advisory opinion process in H.R. 2389 would severely hamper the Government's ability to prosecute health care fraud. Even with appropriate written caveats, defense counsel will hold up a stack of advisory opinions before the jury and claim that the defendant read them and honestly believed (however irrationally) that he or she was not violating the law. The prosecution would have to disprove this defense beyond a reasonable doubt. This will seriously affect the likelihood of conviction of those offering kickbacks.

Advisory opinions would likely require enormous resources and many full time equivalents (FTE) at HHS. The user fees in the bill would go to the Treasury, not to HHS. Even if they did go to HHS, appropriations committees tend to view them as offsets to appropriations. There are no estimates of number of likely requests, number of FTE required, etc. Also, HHS is permanently downsizing, even as it faces massive structural and program changes. The possible result of the bill is a diversion of hundreds of anti-fraud workers to handle the advisory opinions.

For the above reasons, DOJ, HHS/OIG and the National Association of Attorneys General strongly oppose advisory opinions under the anti-kickback statute, and all other intent-based statutes.

6. CREATION OF TRUST FUND MECHANISM WHICH DOES NOT BENEFIT LAW ENFORCEMENT

Background: In our view, the most significant step Congress could undertake to reduce fraud and abuse would be to increase the resources devoted to investigating false claims, kickbacks and other serious misconduct. It is important to recognize that the law enforcement effort to control Medicare fraud is surprisingly small and diminishing. There is evidence of increasing Medicare fraud and abuse, and Medicare expenditures continue to grow substantially. Yet, the staff of the HHS/OIG, the agency with primary enforcement authority over Medicare, has declined from 1,411 employees in 1991 to just over 900 today. (Note: 259 of the 1,411 positions were transferred to the Social Security Administration). Approximately half of these FTE are devoted to Medicare investigations, audits and program evaluations. As a result of downsizing, HHS/OIG has had to close 17 OIG investigative offices and we now lack an investigative presence in 24 States. The OIG has only about 140 investigators for all Medicare cases nationwide. By way of contrast, the State of New York gainfully employs about 300 persons to control Medicaid fraud in that State alone.

Ironically, the investigative activity of OIG pays for itself many times over. Over the last 5 years, every dollar devoted to OIG investigations of health care fraud and abuse has yielded an average return of over $7 to the Federal Treasury, Medicare trust funds, and State Medicaid programs. In addition, an increase in enforcement also generates increased deterrence, due to the increased chance of fraud being caught. For these reasons, many fraud control bills contain a proposal to recycle monies recovered from wrongdoers into increased law enforcement. The amount an agency gets should not be related to how much it generates, so that it could not be viewed as a ''bounty.'' The Attorney General and the Secretary of HHS would decide on disbursements from the fund. We believe such proposals would strengthen our ability to protect Medicare from wrongdoers and at no cost to the taxpayers. The parties who actually perpetrate fraud would ''foot the bill.''

H.R. 2389 Proposal: Section 106 would create a funding mechanism using fines and penalties recovered by law enforcement agencies from serious wrongdoers. But none of the money would be used to help bring others to justice. Instead, all the funds would be used only by private contractors for ''soft'' claims review, such as, medical and utilization review, audits of costs reports, and provider education.

The above functions are indeed necessary, and they are now being conducted primarily by the Medicare carriers and intermediaries. Since the bill would prohibit carriers and intermediaries from performing these functions in the future, there appears to be no increase in these functions, but only a different funding mechanism.

These ''soft'' review and education functions are no substitute for investigation and prosecution of those who intend to defraud Medicare. The funding mechanism in H.R. 2389 will not result in any more Medicare convictions and sanctions.

In summary, H.R. 2389 would:

Relieve providers of the legal duty to use reasonable diligence to ensure that the claims they submit are true and accurate; this is the effect of increasing the Government's burden of proof in civil monetary penalty cases;

Substantially increase the Government's burden of proof in anti-kickback cases;

Create new exemptions to the anti-kickback statute which could readily be exploited by those who wish to pay rewards to physicians for referrals of patients;

Create an advisory opinion process on an intent-based criminal statute, a process without precedent in current law; since the fees for advisory opinions would not be available to HHS, our scarce law enforcement resources would be diverted into hiring advisory opinion writers; and

Create a fund to use monies recovered from wrongdoers by law enforcement agencies, but the fund would not be available to assist the law enforcement efforts; all the monies would be used by private contractors only for ''soft'' payment review and education functions.

In our view, enactment of the bill with these provisions would cripple our ability to reduce fraud and abuse in the Medicare program and to bring wrongdoers to justice.

Thank you for your attention to our concerns.

Sincerely,

JUNE GIBBS BROWN,
Inspector General.

PRESS CONFERENCE OF ATTORNEY GENERAL JANET RENO ON HEALTH CARE FRAUD, OCTOBER 18, 1995

Attorney General RENO. Thank you, Secretary Shalala.

The House Medicare bill would make it more difficult for us to prosecute medical providers for fraudulent conduct against patients and the Medicare system. These provisions are totally inconsistent with the provisions in the Senate bill, which would facilitate our law enforcement efforts against health care fraud that harms us all, and particularly our most vulnerable.

I understand that some members of the House have indicated that law enforcement should not be criminally prosecuting health care providers who engage in fraud. I just don't understand that, for I believe that health care fraud is so detrimental to the health and to the pocketbook of all Americans that I made health care fraud one of my priorities in the Department of Justice. I believe perpetrators of health care fraud should not be immune from criminal prosecution because they commit a crime in an office, in a boardroom, in a laboratory, rather than in the street. White collar crooks who pay or take kickbacks endanger the health of patients and steal money from us all.

Experts estimate it may cost Americans as much as $100 billion a year. That is why we need stronger, not weaker, provisions in the House bill. The Senate bill, under the leadership of Senator Cohen and with bipartisan support, provides those strengthened provisions.

Particularly at this time, we need to preserve every Medicare trust fund dollar; we cannot allow Medicare money to be spent on bribes paid to doctors and others as inducement for the referral of Medicare patients. Even more importantly, we cannot allow financial inducements to corrupt the professional judgment of medical providers—providers who Americans have been taught to trust. Decisions which physicians make day in and day out—whether and where to hospitalize a patient, what laboratory tests to order, what surgical procedure to perform, what drug to prescribe, and how long to keep a patient in a psychiatric facility—affect the health and well-being of our elderly patients and our children. Allowing these decisions to be made under the influence of kickbacks is just plain wrong.

The House bill would place a very high, additional burden on the Government in its attempts to prosecute those who pay or receive kickbacks for the purpose of inducing the referral of Medicare business. Existing law requires the Government to prove that one purpose of the kickback was to induce the referral of health care business. The language of the House bill would require that the Government prove that the payment was made for the significant purpose of inducing the referral. That's language that would immunize arrangements that are dressed up to disguise the payor's motive. This would seriously undermine our efforts and it would place beyond the reach of prosecution many kickbacks which are calculated to induce referrals and which adversely affect the judgment of medical providers. From the perspective of Federal law enforcement and, I believe, from the perspective of patients who seek their doctors' advice, this result is simply not acceptable.

Ultimately, this isn't a choice between prosecuting violent crime and prosecuting health care fraud. Both of them do real harm to real people and both deserve vigorous enforcement action. I hope that the House legislation will support, not undermine, our efforts.

QUESTION. Why are the Republicans gutting the statutes?

Attorney General RENO. You would have to ask them, but I have heard it said that they said we shouldn't prosecute these cases while we have robbers and murderers on our streets. And my response is we need to do both with vigor.

QUESTION. Secretary Shalala, what's your theory about why this is happening up in the House?

Secretary SHALALA. Well, I have long ago learned not to anticipate the motivations, but they clearly are weakening our ability to get fraud out of the system, particularly—it's particularly damaging during an era, as the Attorney General pointed out, where we need to squeeze every dollar we can out of Medicare to invest in the trust fund. And the last things we should be doing is wasting money or letting people rip off the program.

QUESTION. [inaudible] uniform deadly health policy that you approved yesterday. Tell us, do you think it will clear up some of the confusion left over from the Ruby Ridge damage?

Attorney General RENO. Again, I think this is an important step forward because for the first time, all of the major law enforcement agencies in the Federal Government have joined together in a uniform policy. And I think it will help people to understand when deadly force can be used. It will apply to each agency and I am very delighted about that.

QUESTION. What is the real change that this policy makes?

Attorney General RENO. This policy will—the real change.

QUESTION. What's the difference from the way it would be.

Attorney General RENO. DIFFERENT DEPARTMENTS HAD DIFFERENT PROVISIONS AND THIS CONSOLIDATED IN ONE, I THINK, A VERY FIRM STATEMENT ON THE POLICY OF BOTH THE TREASURY AGENCY AND THE DEPARTMENT OF JUSTICE.

QUESTION. What tangible impact do you expect the changes to have on the deadly force policy.

Attorney General RENO. I think it will enable those enforcement officers involved to understand when they can and can't use deadly force and I think the message will be clear.

QUESTION. Secretary Shalala, will you ask the President to veto this bill unless this is modified?

Secretary SHALALA. THERE ARE SO MANY PROVISIONS IN THE REPUBLICANS BILL THAT I HAVE ALREADY SENT A LETTER TO THE HILL, INDICATING THAT IF THEY ADOPT THE BILL AS IT'S NOW WRITTEN THAT I WILL RECOMMEND THAT THE PRESIDENT VETO IT. I WILL JOIN WITH THE ATTORNEY GENERAL AFTER WE REVIEW THESE PROVISIONS IN AN ADDITIONAL COMMENT FOR THE PRESIDENT, ADVISING HIM ON THE BILL. BUT THESE ARE SIMPLY UNACCEPTABLE AND I THINK THAT'S OUR POINT TODAY.

QUESTION. Are all these are provisions for Medicare and Medicaid violations only or do some of them include kickback statutes that cover general medical operations, not Government programs?

Attorney General RENO. No, it covers some Government programs. We would like to see it expanded to others: to the Federal Health employees benefits program, to the CHAMPUS program on behalf of the Department of Justice.

QUESTION. But it doesn't cover kickbacks——

Attorney General RENO. In the private sector.

QUESTION [continuing]. Not involving Medicare or Medicaid?

Attorney General RENO. That's correct.

QUESTION. Do you know, as a practical matter, how the change in the standard of proof would affect the prosecution?

Secretary SHALALA. I think the cases that we gave you as an example we would probably not be able to prosecute.

Attorney General RENO. If I can prove one purpose is to induce the referral of Medicare business, that's one thing. But to have to prove that the significant purpose is to induce the referral of Medicare business significantly heightens the standard. I think it produces confusion as to what is meant by significant. And I think it undermines what the kickback statute is trying to prevent.

Any time you bribe someone to get business you are impairing or presenting a chance for the impairment of judgment. That should never—the fact that you get money for referring business, particularly medical business, should never be a factor in the physicians' or the providers' judgment. It should be what is in the best interest of that patient, what is the most cost-effective medical treatment. And a significant purpose or one purpose, it is critically important that there not be bribery to secure Medicare business.

QUESTION. How does that, in turn, make it harder to prosecute?

Attorney General RENO. I might be able to prove that it is one purpose, but having to prove that it is the significant purpose heightens the standards of proof.

Secretary SHALALA. In fact, the Inspector Generals—all of them have signed on to a letter to the Hill that basically said it would bring those kinds of cases to a standstill because it raises the bar pretty high.

QUESTION. It sounds like it would make it pretty easy for those involved in the kickbacks to get around it, doing something illegal by masking and not making——

Attorney General RENO. All they would have to do is disguise it and say it's for this reason or for that reason or it has something to do with the patient's care and I might not be able to prove that it is a significant purpose. It has that chance of disguising what is really a bribe.

QUESTION. Attorney General Reno, on another subject, what is the Justice Department's position on the U.S. Sentencing Commission's guidelines on crack cocaine versus powder cocaine and the pending legislation that deals with that?

Attorney General RENO. We have said and made clear that prosecutors, police officers, and most of all, the residents of communities across this nation that have been impacted by crack cocaine, understand that the marketing and distribution systems and nature of the drug have had a terrible, terrible impact on many neighborhoods and that its impact reflects the need to have some distinction in the manner in which crack is treated. But the Justice Department has made clear that it favors a review of the 101 ratio, to adjust it, to make it fairer.

It is our hope that legislation that is pending now which rejects the one-to-one ratio because of the impact on communities across this nation also would provide—ask the Sentencing Commission to study it again in this coming year to come up with a recommendation that reflects the impact of crack on the community but also achieves fairness.

QUESTION. What would you suggest would be a good ratio?

Attorney General RENO. We are going to be reviewing with all concerned—as part of—I serve as part of the ex officio members of the Sentencing Commission—that balance.

QUESTION. Secretary Shalala, given that the [inaudible] is taking a completely different approach, isn't there every reason to believe it will be worked out in Congress?

Secretary SHALALA. We long ago have learned not to depend on one House versus another House. I think we are pointing the contrast out between this House bill, which is going to the floor tomorrow, and our ability to work in a bipartisan manner with the Senate. Obviously, we hope in conference we will be able to work it through, but we want to make it very clear that what the House is doing is unacceptable. And most members of Congress probably don't know what's in the bill, since it was moved so quickly.

QUESTION. Have you considered asking the American Medical Association to join you in urging the Republicans to change this?

Secretary SHALALA. There are numerous organizations that have now spoken out on this issue. Most of them have been the State Attorney General, for example, and the Inspector Generals. The American Medical Association, with a handful of important exceptions, have joined us on all issues that are related to fraud and abuse because they are absolutely opposed to, number one, having to police themselves; and number two, I think they very much favor anything we can do to help them to clean up the profession.

QUESTION. So where exactly are they on this?

Secretary SHALALA. You will have to go ask them.

QUESTION. Are you talking about the American Medical Association or American medical associations of various types?

Secretary SHALALA. Well, of various types.

QUESTION. Not the American Medical Association?

Secretary SHALALA. I don't know the position of the AMA at this moment.

QUESTION. [inaudible.]

Secretary SHALALA. Well, the self-referral changes that are being referenced is whether

a doctor can own a laboratory and then refer his own patients to a laboratory in which he has a financial interest. That law was changed a number of years ago because of the abuse that was found in the system. There were 45 percent more referrals if the doctors owned the lab. And that was barred by the law. And the American Medical Association has favored repealing the law which we are, of course, opposed to.

QUESTION. Are there any examples of fraud cases that stand out that would be good to pinpoint, related to this?

Attorney General RENO. One of the cases—where is Jerry Stern—is NME case of last year. Our recovery in that case was $379 million and that was based in significant part on this provision that we are trying to defend today in terms of kickbacks.

QUESTION. Do you have any idea what would have happened had the law been [inaudible]?

Attorney General RENO. I think, again, you can't quantify it. But any time you have to prove that some—rather than just one purpose, that it was the significant purpose, you raise the bar real high. Thank you.

(Whereupon, at 1:55 p.m., the press conference adjourned.)

Mr. DOMENICI. Mr. President, could I ask if it will be in order to ask for the yeas and nays or to table the Harkin amendment even if we now proceed to the amendment of the Senator from Arizona?

The PRESIDING OFFICER. It will be in order to do that when the amendment recurs for a vote.

The Senator from Arizona.

AMENDMENT NO. 2971

(Purpose: To eliminate corporate welfare in Federal programs)

Mr. MCCAIN. Mr. President, I have an amendment at the desk. I ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Arizona [Mr. MCCAIN], for himself, Mr. FEINGOLD, Mr. THOMPSON, Mr. KERRY, and Mr. FAIRCLOTH, proposes an amendment numbered 2971.

Mr. MCCAIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. MCCAIN. Mr. President I yield myself 4 minutes of the 5 minutes.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, this is a bipartisan amendment, which has been endorsed by the Citizens Against Government Waste and Citizens for a Sound Economy, which would terminate or substantially reform a dozen Federal programs identified by the Progressive Policy Institute and the Cato Institute as amongst the most egregious forms of corporate welfare in the Federal budget. These amount to savings of about $60 billion over the next 7 years. They are the Marketing Promotion Program, the advanced light water reactor, Forest Road Construction Program, highway demonstrations, military export sales, broadcast spectrum auction, Export/Import Bank, the B–2 bomber, Travel and Tourism Administration, sub- and supersonic research——

Mr. ROCKEFELLER. Mr. President, will the Senator yield for a friendly inquiry?

Mr. MCCAIN. I only have 4 minutes, I say to my colleague.

Mr. ROCKEFELLER. May I have 5 seconds?

Mr. MCCAIN. If you ask unanimous consent, I will be glad to yield.

Mr. ROCKEFELLER. Can the Senate get a copy of your amendment now? We have nothing.

Mr. MCCAIN. Absolutely.

Mr. ROCKEFELLER. I do not want to embarrass the U.S. Senate.

Mr. MCCAIN. I will make sure the Senator gets a copy of the amendment.

Mr. DOMENICI. We delivered a copy of the amendment.

Mr. MCCAIN. A copy of the amendment, I understand, has been delivered to the Senator from West Virginia. I certainly understand his frustration if he did not have a chance to see the amendment.

Mr. President, continuing—sub- and supersonic research; terminates the NASA program which conducts aircraft design activities, which can be undertaken by the private sector; oil and gas research and development; rural electric utilities service.

Mr. President, there is nothing new about these programs. They are items we have been discussing on the floor of the Senate for many years. They each have one thing in common; in a time of fiscal necessity, we can no longer afford them.

We are considering historic legislation to place the Federal budget on a 7-year path toward balance and to reform unsustainable entitlement programs which threaten to bankrupt our Nation. If we are going to restore fiscal sanity and if we are going to ask poor people to take cuts in their programs, if we are going to reduce the rate of growth of many, many programs that have been designed as a safety net for those less well off in our society, if we are going to have credibility with the American people, we had better go after this corporate pork and we better do it soon. Otherwise, we will open ourselves to justifiable criticism that we take care of corporate America while we do not take care of citizens who are less fortunate than we in our society.

I think it is an important amendment. I think it is going to put the Senate on record as to exactly where we stand on some of these programs that have clearly, clearly not required Federal funding in order to continue.

We owe a debt of gratitude to the Cato Institute and Progressive Policy Institute. Although they represent different ideological perspectives, they joined together to identify corporate welfare programs and to articulate the destructive role that they play in the Federal budget and the economy.

As time is limited on debate, I offer these insights as offered by these groups. The Cato Institute says:

Corporate welfare is an enormous drain on the Federal Treasury for little economic benefit.

The Progressive Policy Institute says:

The President and Congress can break the [budget] impasse and substantially reduce most spending and projected deficits * * * if they are willing to eliminate or reform scores of special spending programs and tax provisions narrowly targeted to subsidize influential industries.

I reserve my 1 minute.

Mr. KENNEDY. Mr. President, at a time when deep cuts are being proposed in Medicare, Medicaid, education, the earned income tax credit, welfare benefits, and other important programs for senior citizens, children, and working families, it is essential to see that corporate welfare—government subsidies to wealthy corporations—bears its fair share of the sacrifices needed to put the Nation's fiscal house in order.

I welcome the opportunity to work with Senator MCCAIN and other Senators in this bipartisan effort. We have identified a dirty dozen examples of corporate welfare that ought to be ended or drastically reduced.

My hope is that the current efforts will become the foundation for a longer-term initiative to deal more effectively with the wider range of corporate welfare provisions on both the spending side and the tax side of the Federal budget.

At a time when we are cutting billions of dollars from health benefits for the elderly, it makes no sense to continue to give away billions to wealthy telecommunications corporations by failing to obtain fair market value by auctioning electronic spectrum.

At a time when we are imposing billions of dollars in taxes on our working families, it makes no sense to spend billions of dollars on additional B–2 bombers that the Pentagon doesn't want and the Nation doesn't need.

At a time when we are imposing new burdens on education, it makes no sense to confer excessive subsidies on oil and gas companies.

At a time when we are cutting benefits for the disabled, it makes no sense to continue to provide subsidies for major companies to market their goods overseas.

Our current amendment will end these and several other forms of corporate welfare. It also calls for a base-closing type Federal Commission to deal with this equally flagrant type of corporate welfare—the lavish Federal subsidies dispensed to wealthy individuals and corporations through the Tax Code.

Over the next 7 years, these tax subsidies will cost the Treasury a total of $4.5 trillion. Yet they undergo no annual review during the appropriations process or during reconciliation. Once enacted, they can go on forever, with no effective oversight by Congress.

The Commission we are proposing will examine all existing tax subsidies and make recommendations to Congress that will be subject to a ''yes'' or ''no'' vote by the Senate and the House.

I commend Senator MCCAIN and our other colleagues for their work on this important issue, and I am hopeful that the Senate will approve our amendment. Our action on this legislation is part of a longer-term initiative to insist on congressional scrutiny of all Federal subsidies.

At a time when so many individuals and families are being asked to bear a heavy burden of budget cuts, there should be no free rides for special interest groups and their cozy subsidies.

Mr. KOHL. Mr. President, I rise in reluctant support of the amendment from the Senator from Arizona to cut spending from 12 programs.

I am supporting the amendment because, at a time when we are debating a budget bill to cut programs and assistance for the most needy in our society, I find it hard to pass up an opportunity to cut billions of dollars from programs like the B–2 bomber, and oil and gas subsidies.

However, while I will support this amendment, I am extremely unhappy with the decision by the proponents of this amendment to cut loan programs for rural electric cooperatives, who depend on those funds to keep utility rates reasonable for rural residents.

I am equally unhappy with the choice of the proponents of this amendment to eliminate the Market Promotion Program, on the heels of the successful effort to eliminate the corporate subsidies from that program, and target it toward small businesses and cooperatives.

So while I must reluctantly vote in support of this amendment to cut billions of dollars, if it does prevail, I will work to have the Rural Utility Service loans and the Market Promotion Program restored in conference.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, this amendment has very broad jurisdictional problems with a whole series of committees. It is the opinion of this Senator that probably the primary committee of jurisdiction would again be the Finance Committee. Therefore, I will yield to a member of the Finance Committee, the Senator from West Virginia, for remarks to be included in our 5 minutes.

Mr. ROCKEFELLER. Mr. President, I appreciate the action of the ranking member of the Budget Committee.

This amendment which we have not yet—let me say first of all, it will be my hope that our side will not take a position on this, because we are simply unaware of what it is. In fact, it appears to be many, many things.

It starts out with the elimination of the Market Promotion Program for agriculture, I think. It appears to be part Agriculture, part Finance, part Commerce Committee. It gets into the termination of the Advanced Light Water Reactor Program. I am thoroughly unqualified to review that. It talks about timber access roads. That is an Energy Committee matter. It talks about United States Travel and Tourism, USTTA. That is something I strongly support. Other Members may not. I suspect the Senator from Arizona does not.

There is a private sector funding for certain research and development by NASA relating to aircraft performance. That is the formal title. What that means I have absolutely no idea, and I have no way of finding out in the next 2 or 3 minutes.

There are many other things—the recoupment of certain Department of Defense costs for equipment sold directly by contractors to foreign countries and international organizations.

So, my plea would be for all my colleagues to take this 21-page amendment, between the time now—having no position on it, as would be my recommendation to my ranking member on the Budget Committee—and the time that we vote, and Senators make up their minds as best they can.

I am absolutely unable, having had this for a period of 2½ minutes, to make heads or tails of it, since it is many things and, I suspect, many things to many people. This is not, it strikes me, in terms of process, one of the Senate's finer moments.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, following up the inquiry that was made just a few moments ago by the chairman of the committee, I would also presume we have not made up our minds on this side of the aisle on this amendment. I also assume that, without taking action now, it would not preclude us from making a point of order which might lie against this amendment at some future date before the vote is taken; is that correct?

The PRESIDING OFFICER. The point of order can be made when the amendment comes up again.

Mr. EXON. I thank the Chair.

Mr. DOMENICI. Does Senator MCCAIN have any additional time?

The PRESIDING OFFICER. The Senator has 51 seconds.

Mr. MCCAIN addressed the Chair.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. MCCAIN. Mr. President, for the benefit of the Senator from West Virginia, we did distribute this amendment much earlier today. I am sorry he did not get it.

Also, I would like to point out that Senators FEINGOLD, KERRY, and KENNEDY are also cosponsors of this amendment. So some Members on his side of the aisle obviously are aware of it.

I am also aware that a budget point of order can be lodged against this amendment, and I do not expect it to pass, Mr. President. I am being very frank. But I will tell you what. We are going to be on record as to what we support and what we do not support in the way of corporate pork and whether we are really willing to make the sacrifices necessary to reduce this unconscionable debt of $187,000 per child in America while we support corporations all over America with taxpayers' dollars.

Mr. ROCKEFELLER. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Arizona's time has expired.

Mr. ROCKEFELLER. Is there any time?

The PRESIDING OFFICER. There is a minute and 40 seconds available to the Senator from Nebraska.

Mr. EXON. We have 40 seconds left.

The PRESIDING OFFICER. A minute and 40 seconds.

Mr. EXON. I am prepared to yield that back in a moment.

Mr. McCAIN. The Senator from West Virginia——

Mr. EXON. I see the majority leader in the Chamber. Is he seeking recognition?

Mr. DOLE. No.

Mr. EXON. I yield back the remainder of our time.

I thought Senator ROCKEFELLER was finished.

Mr. ROCKEFELLER. In responding to the Senator from Arizona and what I am sure is a very good-faith—I know is a very good-faith effort, if Senators FEINGOLD, KENNEDY and others are in fact cosponsors of it, one would never know by looking at the amendment because only the name of the Senator from Arizona is listed. And this is part of what I am talking about. If we are going to make serious decisions about the enormous variety of programs, we have to do this in some kind of more intelligent way. Now, the rules may preclude us from doing that because the agreement has already been made, but this is many things to many people.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time expired?

Mr. McCAIN. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska has 30 seconds.

Mr. EXON. Reserving the right to object, the yeas and nays are being requested. Again, I want to make it clear that would not preclude us from making a point of order before the vote is taken. That is correct?

The PRESIDING OFFICER. The Senator is correct.

Mr. EXON. I thank the Chair.

Mr. DOMENICI. I thank the Senator from Arizona. We imposed on him this afternoon, having called down and you were not ready, and I apologize for that.

Mr. McCAIN. Is it appropriate for the Senator from Nebraska to make a

point of order at this point and we move to waive the point of order, or does that take place at the time of the vote?

Mr. EXON. I simply say we are looking at this. I do not know whether we are going make a point of order against this or not.

Mr. McCAIN. I thank the Senator.

Mr. EXON. We are simply reserving the right to do that at a certain time, and I will not give that up at this juncture.

The PRESIDING OFFICER. The Senator has that right.

Mr. DOMENICI. Parliamentary inquiry. Is it not Senator BYRD's amendment that is next pursuant to the previous agreement?

Mr. FORD. That would be the Senator's prerogative.

Mr. DOMENICI. I am just asking.

The PRESIDING OFFICER. The Chair has no specified list and therefore presumes it is to up to the managers of the bill.

Mr. EXON. Mr. President, Senator BYRD will be next in line, and I am pleased to yield to him whatever time we have on this amendment.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for up to 5 minutes.

AMENDMENT NO. 2972

(Purpose: To strike the reductions in highway demonstration projects and to provide an offsetting revenue increase)

Mr. BYRD. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from West Virginia [Mr. BYRD], for himself and Mr. FORD, proposes an amendment numbered 2972.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Strike section 6002.

On page 1746, line 11, strike ''2001'' and insert ''2000''.

On page 1747, strike the matter between lines 7 and 8, and insert:

For calendar year:	The percentage is:
1995	100
1996	80
1997	60
1998	40
1999	20

Mr. BYRD. Mr. President, less than 4 years ago, Congress passed the Intermodal Surface Transportation Efficiency Act, ISTEA. That legislation modernized our Federal Aid Highway Program by targeting available resources on the most critical needs. The bill before us would rescind $712 million for certain highway projects funded in ISTEA and previous appropriation acts. This represents a substantial retreat from the commitments made in ISTEA and in those appropriations acts.

Mr. President, my amendment will restore full funding for these important highway projects in 48 States. By rescinding these Federal funds, the bill before us would require States to cough up an additional $712 million for these projects. In effect, this would cause States to have to increase their matching share from 20 percent to as much as 32 percent in order to complete these projects.

Currently, the Department of Defense shows a total unobligated balance in excess of $10 billion for ongoing military construction projects, yet no one—no one—suggests that we should rescind 15 percent of these unobligated balances in defense and thereby ensure that these projects cannot be completed.

If we seek to reduce our Federal budget deficit by worsening our investment deficit in our Nation's infrastructure, we will have done absolutely nothing to improve our national prosperity. We will only dig our Nation into a deeper hole characterized by excessively congested and deteriorating roads and bridges.

According to the Department of Transportation, there are currently more than 234,000 miles of nonlocal roads across the Nation which require improvements immediately or within the next 5 years. Additionally, 118,000 of the Nation's 575,000 bridges, more than one in five, are structurally deficient. Our current highway capacity is being stretched beyond its limits, and what is our response at the Federal level? Just as is the case with our Federal budget deficit, we are leaving the mess to our grandchildren.

To fully offset the effects of the restoration of these critical highway projects, my amendment includes a modification to section 12803 of the reconciliation bill which phases out the tax deductions presently allowed for the interest paid on company-owned life insurance policies over the period 1996 to 2001. Companies have used this loophole to earn profits at the expense of the taxpayer by insuring employees, then borrowing on the policy and deducting the interest on company tax returns. Both the Senate and House bills proposed to phase out this loophole.

My amendment would simply require the phaseout in the Senate bill to be completed in 4 years rather than 5 years. My proposal would retain the key employee exception as contained in the Senate bill. My amendment would restore highway moneys to 48 States, and I urge its adoption.

Now, Mr. President, I ask unanimous consent that Mr. BUMPERS and Mr. PRYOR be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Now, Mr. President, 48 States will lose money unless my amendment is adopted. They will lose money for highways. I do not blame the committee that had to meet its instructions and did so by rescinding $712 million in highway funds. But I have provided an offset, and therefore I hope that this amendment will be adopted.

I have received letters of support of my amendment from the American Road and Transportation Builders Association, the American Trucking Association, and the Associated General Contractors of America.

Mr. President, let me just read a few of those States that lose money. Alabama will lose $12.8 million; Arizona, $2.8 million; Arizona, $31.5 million; California, $43.8 million; Connecticut, $5 million; Florida, $27.9 million; Georgia, $10.8 million; Hawaii, $3 million; Idaho, $8 million; Illinois, $29 million; Indiana, $8 million; Iowa, $9 million; Kansas, $9 million; Kentucky, $4.6 million; Louisiana, $13.8 million; Maine, $10.9 million; Maryland, $12.6 million; Michigan, $23 million; Minnesota, $23.5 million; Mississippi, $2.9 million; Missouri, $9.3 million; Montana, $3 million; Nebraska, $2.8 million; Nevada, $5.8 million; New Hampshire, $4.3 million; New Jersey, $29.3 million; New York, $40 million——

The PRESIDING OFFICER. The time of the Senator from West Virginia has expired.

Mr. BYRD. Mr. President, I have on each desk the table of the amount that the various States would lose. I ask unanimous consent that this table, along with three letters in support of my amendment, be printed in the RECORD. I urge adoption of the amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT

States	Appropriated demos	1982 act demos	1987 act demos	Unobligated ISTEA demos	Estimated fiscal 1996–1997 ISTEA demos	Total
Alabama	600,000	0	29,259	3,983,891	8,205,463	12,818,613
Alaska	0	0	0	0	0	0
Arizona	1,492,206	0	0	773,238	633,033	2,898,477
Arkansas	417,552	0	67,578	13,433,012	17,670,188	31,588,330
California	3,920,286	11,849	1,637,734	19,165,117	19,154,455	43,889,441
Colorado	0	0	0	90	150,475	150,565
Connecticut	100,200	0	324,603	531,450	4,119,907	5,076,160
Delaware	0	0	0	0	0	0
District of Columbia	0	0	812,253	2,069,040	1,146,724	4,028,017
Florida	3,233,284	0	2,547,679	12,885,327	9,317,009	27,983,299

HIGHWAY FUNDS TO BE RESTORED BY BYRD AMENDMENT —Continued

States	Appropriated demos	1982 act demos	1987 act demos	Unobligated ISTEA demos	Estimated fiscal 1996–1997 ISTEA demos	Total
Georgia	582,750	0	0	4,548,971	5,758,944	10,890,665
Hawaii	1,200,000	0	931,285	568,800	311,328	3,011,413
Idaho	0	0	17,587	4,455,415	3,652,915	8,125,917
Illinois	435,951	119,805	163,132	16,152,427	13,015,067	29,886,382
Indiana	866,448	0	15	2,459,368	4,924,171	8,250,002
Iowa	654,678	0	0	2,592,174	5,901,066	9,147,918
Kansas	2,287,280	0	0	3,624,030	3,787,824	9,699,134
Kentucky	1,662,456	0	0	1,827,894	1,120,780	4,611,130
Louisiana	1,725,000	0	2,997,515	5,475,780	3,630,344	13,828,639
Maine	0	0	0	1,291,604	9,708,244	10,999,848
Maryland	5,269,652	0	244,012	2,113,169	4,986,436	12,613,269
Massachusetts	438,000	0	598,349	559,320	306,139	1,901,808
Michigan	14,042,211	0	0	2,898,416	6,437,225	23,377,852
Minnesota	7,722,427	0	8,968	4,965,669	10,831,101	23,528,165
Mississippi	60,000	0	0	1,222,950	1,713,600	2,996,550
Missouri	96,000	0	0	1,812,401	7,475,659	9,384,060
Montana	640,542	0	0	1,429,242	933,984	3,003,768
Nebraska	0	0	0	1,576,152	1,298,237	2,874,389
Nevada	197,415	0	0	1,267,384	4,363,780	5,828,579
New Hampshire	1,159,504	0	640	1,571,425	1,665,604	4,397,173
New Jersey	6,306,751	0	2,350,069	10,125,842	10,528,075	29,310,737
New Mexico	1,318,693	0	38	0	560,390	1,879,121
New York	7,696,917	0	0	14,391,838	18,515,195	40,603,950
North Carolina	769,500	0	141,337	5,440,685	7,586,025	13,937,547
North Dakota	0	0	102,955	9,505	3,684,048	3,796,508
Ohio	1,159,275	0	1,306,292	12,078,132	8,206,606	22,750,305
Oklahoma	674,695	0	0	1,447,826	4,594,163	6,716,684
Oregon	98,954	0	80,300	5,208,840	2,386,848	7,774,942
Pennsylvania	6,949,575	0	2,446,078	56,843,233	45,750,168	111,989,054
Rhode Island	0	0	704,318	2,438,042	2,978,890	6,121,250
South Carolina	0	0	0	0	2,008,065	2,008,065
South Dakota	794,400	0	0	1,523,616	971,343	3,289,359
Tennessee	0	0	0	1,830,312	2,142,662	3,972,974
Texas	3,035,244	0	0	13,800,624	12,590,892	29,426,760
Utah	2,919,008	0	0	379,200	565,579	3,863,787
Vermont	0	0	0	1,655,358	1,037,760	2,703,118
Virginia	885,868	0	259,584	6,238,310	7,238,376	14,622,138
Washington	0	0	0	1,290,000	4,649,164	5,939,164
West Virginia	27,556,841	0	1,701,531	20,905,207	16,178,678	66,342,257
Wisconsin	0	0	0	0	3,709,992	3,709,992
Wyoming	0	0	0	0	1,037,760	1,037,760
American Samoa	0	0	90,479	113,760	119,342	323,581
Virgin Islands	321,600	0	0	1,263,900	1,042,948	2,628,448
Total	109,291,163	131,654	19,563,590	272,247,986	310,302,671	711,537,064

AMERICAN ROAD & TRANSPORTATION BUILDERS ASSOCIATION,
Washington, DC, October 26, 1995.

DEAR SENATOR: The documented backlog of highway and bridge needs in the United States was estimated at more than $290 billion by the Department of Transportation in its 1993 report to the Congress. Despite this huge deficiency in infrastructure investment, the reconciliation bill (S. 1357) now before the Senate would reduce funding for highways by $522 million in fiscal year 1996 and an additional $165 million in fiscal year 1997.

The 4,000 members of the American Road & Transportation Buildings Association (ARTBA) strongly urge that you support an amendment to S. 1357 to be offered by Sen. Robert C. Byrd that would preserve existing funding levels.

Cutting highway funding at this time would be in conflict with the conference report on the fiscal 1996 transportation appropriations bill (H.R. 2002). That measure reflects the importance of highways to the country by increasing funding for their improvement. The federal highway program was, in fact, the only mode to receive a higher funding level than in fiscal 1995.

According to the Federal Highway Administration, America's highways provide 88 percent of the nation's personal transportation in addition to a large proportion of its commercial movement. Congress is expected shortly to approve designation of the National Highway System, a 159,000-mile network of roads intended to be the nation's backbone transportation system and the focus of federal highway investment in the years ahead. Clearly, this is no time to cutting already-inadequate funding for highway improvements. Furthermore, most of the proposed reduction is for activities supported by the Highway Trust Fund, a pay-as-you-go financing system supported by user fees. The sought budget savings can be found in other areas less crucial to this country's future.

ARTBA's nationwide membership is involved in the planning, design, construction, financing and operation of all forms of transportation facilities. It includes contractors, engineers and planners, equipment manufacturers, materials suppliers, public officials, financial institutions and educators. Again, we urge you to support Senator Byrd's amendment to S. 1357.

Sincerely,

T. PETER RUANE,
President & CEO.

AMERICAN TRUCKING ASSOCIATIONS,
Washington, DC, October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: I am writing to indicate the support of the American Trucking Associations for your efforts to restore $712 million in badly needed highway funding.

A Department of Transportation report estimated that the backlong of highway and bridge needs in the United States was in excess of $290 million. The conference report on the FY '96 Department of Transportation Appropriations bill (H.R. 2002) recognized this problem by increasing highway funding. Your efforts to restore that funding is in line with the priorities set out in H.R. 2002.

We support your amendment to S. 1357, the Budget Reconciliation Act, and urge your Senate colleagues to approve this amendment.

Sincerely yours,

TIMOTHY P. LYNCH.

THE ASSOCIATED GENERAL CONTRACTORS OF AMERICA,
Washington, DC, October 26, 1995.

Hon. ROBERT C. BYRD,
U.S. Senate,
Washington, DC.

DEAR SENATOR BYRD: The 33,000 members of the Associated General Contractors of America strongly support your amendment to S. 1357 that will restore much needed funding for highway projects.

Your recognition of the problems that the existing provision (section 6002) will cause the highway program are greatly appreciated. As you are so keenly aware, your amendment restores $715 million in highway funding for 48 states (only Alaska and Delaware escape the cuts included in Section 6002). Elimination of this funding mid stream will simply delay needed construction and could cost as many as 36,000 jobs.

In addition to eliminating current funding for projects (many of which are under construction) that have been previously approved by both the House and Senate, Section 6002 also sets a bad precedent by using highway trust fund money to offset the general fund deficit and will adversely impact the baseline for highway funding which could lower the amount of resources made available for critical highway construction in the future.

Thank you for your continued vigilance in ensuring adequate investment in the Nation's Surface Transportation Programs.

Sincerely,

STEPHEN E. SANDHERR,
Executive Director,
Congressional Relations.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I was not privy to drafting the provisions in the Finance Committee, and from the Environment and Public Works Committee, I wonder if Senator CHAFEE might take half my time and explain this as he sees it.

Mr. CHAFEE. Mr. President, this provision that is referred to as a loophole was entirely legal over the years that it was enforced, and in the Finance Committee, after considerable

negotiation in what we are doing in retroactively repealing something, if you would, the belief was that doing it over 5 years was a fair method of proceeding.

And the belief was that to do it in 4 years—a very abbreviated time—was just not fair. So, Mr. President, this is an intricate, complicated system, and a complicated piece of legislation. But we felt in the Finance Committee that indeed there was considerable pressure to give a longer time to phase it out. But we arrived at 5 years thinking that was a fair way of doing it, and the 4 years just does pose a severe problem and difficulty upon those who chose to use this type of company-owned life insurance policies. So, Mr. President, that was the rationale for going to the 5 years.

Mr. BYRD. Would the Senator yield?

Mr. CHAFEE. Yes.

Mr. BYRD. Mr. President, the House phases it out in 4 years. The Senate phases it out in 5 years. So either way it gets phased out. I suggest we phase it out in 4 years, and apply that money to these infrastructure projects in 48 States of the country. Let us cast a vote for America and the future of America.

Mr. CHAFEE. Mr. President, I do not want to look at this in terms of whether we are voting for America or not. People would not want to stand up here and suggest they were not voting for America. I suspect they believe the amendments are for America.

What I am saying, Mr. President, is that we are doing something retroactively. And it was our belief that 5 years was the fair way. Now, I suppose you could do it in 1 year. But that does not make it any fairer. So, Mr. President, that was the basis on which we did the 5 years in the Finance Committee.

Mr. DOMENICI addressed the Chair.

How much time do I have remaining?

The PRESIDING OFFICER. Two minutes and 20 seconds.

Mr. DOMENICI. Mr. President, I would just make a couple of quick points. Senator BYRD knows that I have great respect for him and I am fully aware of his constant and persistent desire that we spend money on infrastructure. But I think the only possible way, assuming it is not subject to a point of order, that this amendment should be adopted is if the U.S. Senate thinks that the demonstration highway projects were a good thing.

The demonstration highway projects did not treat all States equally. As a matter of fact, by being demonstration projects, some States got a lot more than others. So the distinguished Senator is now looking at that and saying some States would lose and some States would gain, but this is not a formula where everyone was allowed demonstration projects. This is a nonformula.

The demonstrations were established by committee or by appropriation or in that way. And anybody interested in whether this is a fair distribution among our States can just look at the list which I do not chose to read here tonight, but there are some very disproportionate returns of money to certain States and very little to other States that should have the same amount on population and highways. But the demonstrations were not set out in any fair way in the beginning.

So if you think the highway demonstration programs were great, then obviously you ought to put them back in here whereas the committee decided that they did not think they ought to be in and we ought to save money. So that is going to be the issue. That is if it is not subject to a point of order. And the reason I say ''if,'' my instinct tells me it is, but then I think of who offered it, and I am quite sure he made sure it was not subject to a point of order.

Mr. BYRD. Mr. President, will the Senator yield?

Mr. DOMENICI. Yes.

Mr. BYRD. If we do not adopt this amendment, then we are retroactively wiping out those infrastructure projects in 48 States of this country. I hope the Senate will adopt the amendment. I did not mention Pennsylvania, $111 million; Ohio, $22 million; Texas, $29 million; Virginia, $14 million; West Virginia, $66 million. I have only read some of them.

Mr. DOMENICI. The Senator mentioned West Virginia?

Mr. BYRD. I mentioned West Virginia.

The PRESIDING OFFICER. The time of the Senator from New Mexico has expired.

Mr. DOMENICI. I am not going to ask for the yeas and nays or move to table. I will wait for the vote, the time that it comes up.

Senator CHAFEE, I believe, is the next one.

Does the Senator have a copy of Senator CHAFEE's amendment?

Mr. EXON. We do. I might say at this time, following Senator CHAFEE's presentation, I will yield our 5 minutes, which is the jurisdiction of the Finance Committee, to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask that the Chair would be good enough to tell when I have used 3 minutes.

As I understand it, we have 5 minutes on our side.

The PRESIDING OFFICER. That is correct.

Mr. CHAFEE. If the Chair could tell me at the end of 3 minutes, I would appreciate it.

The PRESIDING OFFICER. If the Senator is offering an amendment, he needs to send it to the desk.

AMENDMENT NO. 2973

(Purpose: To guarantee coverage under the medicaid program for low-income aged, blind, and disabled individuals eligible for supplemental security income benefits under title XVI of the Social Security Act)

Mr. CHAFEE. I am sending the amendment to the desk, an unprinted amendment, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The bill clerk read as follows:

The Senator from Rhode Island [Mr. CHAFEE], for himself and Mr. CONRAD, proposes amendment numbered 2973.

Mr. CHAFEE. Mr. President, I would ask that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 767, strike lines 12 through 15 and insert the following:

''(3) provide for making medical assistance available to any individual receiving cash benefits under title XVI by reason of disability (including blindness) or receiving medical assistance under section 1902(f) (as in effect on the day before the date of enactment of this Act); and''.

Mr. CHAFEE. Mr. President, I am offering this amendment on behalf of Senator CONRAD and myself. What it does, it guarantees Medicaid eligibility for low-income individuals with disabilities. Under the language reported by the Senate Finance Committee, States are required to provide coverage to persons with disabilities.

However, and here is the hitch—the States are given complete latitude in establishing the definition of who is disabled. It could be only those who are quadriplegics who are blind are considered disabled. I mean, they can have any definition the States wish. What our amendment does is it sets a minimum standard by requiring States to provide coverage to children and adults with disabilities who receive benefits under the Supplemental Security Income Program [SSI].

But here are the important words, the SSI Program, as amended by the welfare reform bill which we passed here a month or so ago, we passed here by a vote of 87 to 12. So this is a very restricted group. This is not the SSI group that we worry about that included substance abusers, for example. That is not in this category. Only the neediest individuals qualify for SSI. They all have incomes below the poverty level and indeed currently they have to—they cannot be above 75 percent of the poverty level and qualify. Now, this is a pretty low-income group.

Why is this amendment important? Without this requirement, States will have the ability to exclude from coverage a group of individuals who depend on this Medicaid coverage as their only source of health insurance coverage. There is no place else they can go. You say get private insurance. Well, they first cannot afford it. And second, they all have preexisting conditions, and so therefore would not be qualified.

Mr. President, there is no mandated benefit package in this proposal. These are the facts. We do not mandate a benefit package. We leave that up to the States. All we are saying is, you have to cover this group. And how do you describe this group? You describe them

by the SSI description as we had it in the welfare program. So, indeed, with no mandated benefit package, the States could say, ''For this group there will be one aspirin a year.'' That could be done. But at least you have to cover everybody in the group with whatever the benefit package is.

Mr. President, I think it is very important to remember that we are giving the States, over the next 7 years, $800 billion—$800 billion, Mr. President. And they are going to receive their allocations based on the fact of those whom they covered in 1995, and in the group that they covered in which they got their money are these disabled. So, Mr. President, these are a very, very low-income group in our society. They are being cared for very frequently by their parents and others, kept in the community. And without this safety net they would have to in many cases be institutionalized at a far higher cost. I hope my colleagues will join me in preserving this critical safety net.

I yield time to Senator CONRAD.

Mr. CONRAD. Mr. President, I am proud to join Senator CHAFEE in offering this amendment. Mr. President, simply put, this provides health care support to the most severely disabled individuals in our society. Senator CHAFEE and I received a letter of support from the Consortium for Citizens With Disabilities, 30 national organizations that work to support the disabled. They said, and I quote:

> We believe that your amendment to establish a minimum floor of eligibility for children and adults with disabilities is a fundamental component of ensuring a basic safety net for low-income people with severe disabilities.

Mr. President, health care is not an option for these people, it is a necessity. They have it today. They should not be at risk for losing it tomorrow.

During Finance Committee deliberation, we received this communication. It said:

> Mr. Senator, if you are a person with mental retardation, these services are not optional. Remember, this is a lifelong condition which cannot be cured like substance abuse or unemployment. Also remember, it is not a self-inflicted condition, but rather one that a person is born with.

Mr. President, States should not cut severely disabled people from Medicaid. That is the premise of this amendment. I hope our colleagues will support it.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, first, I want to compliment the Senator from Rhode Island, because actually it was the Senator from Rhode Island and myself in the Finance Committee who put up this amendment, which won 17 to 3, and then it sort of disappeared. It particularly disappeared with respect to the disabled. It should be understood the Senator is entirely correct in his amendment, and I urge my colleagues to support his amendment.

On the other hand, it is also important to understand that by voting for this amendment that we are not going to be making a prince out of a frog; that the underlying Medicaid bill which encompasses this amendment is, in the judgment of this Senator, a disaster.

This amendment will help. I do not want to in any way diminish that. This is pregnant women, children, and the disabled, and it is a guarantee. The guarantee was not there before.

The Senator is right when he says the States now have to make a determination under the current law what ''disabled'' means. Good heavens, 50 different definitions coming in on ''disabled.''

The point is, it is a good amendment in a bad bill. The States will still lose 30 percent of their Medicaid funding. In the case of my State, it is a little more than that. On nursing home protection, Federal standards are wiped out. That really does bring up the specter, and some say, ''Well, you are just making a fuss over this.'' What a fuss. The standards we passed in 1987 by which you could no longer tether, that is tie down, an elderly person in a nursing home or drug into passivity an elderly person, is wiped out. So that is now possible under the underlying bill.

These are terrible things. Children with primary care needs, early detection, early protection, no immunization—it is not a good bill. But the amendment is good and the Senator from Rhode Island has suggested an amendment that ought to be adopted.

So I just simply make that point and compliment the Senator significantly for now getting the word ''guaranteed'' coverage into the legislation. I compliment him on that and urge my colleagues to support the Senator's amendment.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Has all time been used on the amendment before us?

The PRESIDING OFFICER. The Senator from Nebraska controls 1 minute, 50 seconds.

Mr. CHAFEE. Mr. President, if I could have just a portion of that.

Mr. EXON. I will be glad to yield half of it to my colleague.

Mr. DOMENICI. Wait a minute; wait a minute. How do we get all 10 minutes in favor of the amendment? I do not want to argue against it. You cannot allocate the time to the other side if they are in favor of the amendment. Is that not the rule? If it is not, I am mistaken.

Mr. EXON. I do not think the rule specifies that. But in a matter of fairness, I agree to the chairman's—who wishes to speak in opposition?

Mr. CHAFEE. Mr. President, it is such an outstanding amendment. I do not think there is any opposition.

Mr. DOMENICI. I am not so sure but you are right. But I want to make sure we do not have all 10 minutes. I thought we were going to save 5.

Mr. CHAFEE. Why do we not save time and just adopt it?

Mr. DOMENICI. We cannot do that right now. It may come to pass.

Mr. EXON. I yield half my time to the Senator from Rhode Island.

Mr. ROCKEFELLER. Will the Senator from Rhode Island yield? Will the Senator from Rhode Island correct the misstatement of the Senator from West Virginia about pregnant women, children and disabled as opposed to the elderly?

Mr. CHAFEE. I am going to stick what we have here, which is we are solely dealing with low-income individuals with disabilities. Mr. President, I tell you, when you are talking 75 percent of poverty, you are really talking about poor people.

But the key thing I want to stress here is these folks are being cared for in the community very frequently by their parents. And do not think these are 6-year-olds and their parents are 35. Their parents are frequently 65 and these individuals are 40 years old. But they are being cared for in the community, because they have this safety net of Medicaid coverage that is there in case they get ill. Otherwise, I am certain that they would end up in institutions at a far greater cost to the public and all of us.

So, Mr. President, I hope the amendment will be adopted.

Mr. COHEN. Will the Senator yield? I indicate my support for the amendment.

The PRESIDING OFFICER. Time has expired. If the manager wishes to speak in opposition, he is entitled to have 5 minutes restored in opposition.

Mr. DOMENICI. I do not choose to speak in opposition. Does any Senator want to speak in opposition? What I would like to do is take my 5 minutes and I would like to yield 2 minutes of that to Senator COHEN. He can speak in favor of it.

The PRESIDING OFFICER. Ten minutes has expired in support.

Mr. DOMENICI. I ask unanimous consent that the Senator have 2 minutes to speak in favor of it.

The PRESIDING OFFICER. The manager is entitled to 5 minutes in opposition. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, I thank my friend. I rise in support of the CHAFEE amendment. Senator CHAFEE has tried valiantly to include the poorest of the poor in our system, and for anyone to object to having the disabled included—I might say, it does not go far enough perhaps, because as I understand the Senator's amendment, it includes pregnant women and children and does not include elderly; it includes disabled but it leaves it up to the States to define what ''disabled'' is.

I know the Senator was eager to use the SSI determination for ''disabled.'' Is that the Senator's amendment?

Mr. CHAFEE. That is right. It has already been adopted. Pregnant women and children up to the age of 12 and 100

percent of poverty, that is covered. And also the disabled are to be covered, but the definition of ''disabled'' was not made.

Mr. COHEN. My understanding is now you have included the definition that has been acknowledged under the SSI determination.

Mr. CHAFEE. As changed by the welfare bill.

Mr. COHEN. Then please let me lend my strong support for that, and I want to thank my friend from New Mexico for allowing me a moment or two to express my support.

Mr. CHAFEE. Mr. President, is this the proper time to ask for the yeas and nays?

The PRESIDING OFFICER. It would be appropriate.

Mr. CHAFEE. I do so. I ask for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. CHAFEE. Mr. President, I want to thank everyone.

Several Senators addressed the Chair.

Mr. EXON. Mr. President, I thought he was next. I was mistaken. I believe Senator BREAUX is next.

I yield our 5 minutes to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana.

AMENDMENT NO. 2963

(Purpose: To provide for a partially refundable child tax credit)

Mr. BREAUX. Mr. President, I have an amendment at the desk and ask it be reported.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Louisiana [Mr. BREAUX] proposes an amendment numbered 2963.

Mr. BREAUX. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1469, beginning on line 2, strike all through page 1471, line 20, and insert the following:

SEC. 12001. CHILD TAX CREDIT.

(a) IN GENERAL.—Subpart C of part IV of subchapter A of chapter 1 is amended by redesignating section 35 as section 36 and by inserting after section 34 the following new section:

''SEC. 35. CHILD TAX CREDIT.

''(a) ALLOWANCE OF CREDIT.—

''(1) GENERAL RULE.—There shall be allowed as a credit against the tax imposed by this subtitle for the taxable year an amount equal to $500 multiplied by the number of qualifying children of the taxpayer.

''(2) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed by paragraph (1) for a taxable year shall not exceed the sum of—

''(A) the tax imposed by this subtitle for the taxable year (reduced by the credits allowable against such tax other than the credit allowable under section 32), and

''(B) the taxes imposed by sections 3101 and 3201(a) and 50 percent of the taxes imposed by sections 1401 and 3211(a) for such taxable year.

''(b) ADJUSTED GROSS INCOME LIMITATION.—The aggregate amount of the credit which would (but for this subsection) be allowed by subsection (a) shall be reduced (but not below zero) by 20 percent for each $3,000 by which the taxpayer's adjusted gross income exceeds $60,000.

''(c) QUALIFYING CHILD.—For purposes of this section—

''(1) IN GENERAL.—The term 'qualifying child' means any individual if—

''(A) the taxpayer is allowed a deduction under section 151 with respect to such individual for such taxable year,

''(B) such individual has not attained the age of 16 as of the close of the calendar year in which the taxable year of the taxpayer begins, and

''(C) such individual bears a relationship to the taxpayer described in section 32(c)(3)(B) (determined without regard to clause (ii) thereof).

''(2) EXCEPTION FOR CERTAIN NONCITIZENS.—The term 'qualifying child' shall not include any individual who would not be a dependent if the first sentence of section 152(b)(3) were applied without regard to all that follows 'resident of the United States'.

''(d) CERTAIN OTHER RULES APPLY.—Rules similar to the rules of subsections (d) and (e) of section 32 shall apply for purposes of this section.''

''(c) CONFORMING AMENDMENT.—The table of sections for such subpart C is amended by striking the item relating to section 35 and inserting the following new items:

''Sec. 35. Child tax credit.
''Sec. 36. Overpayments of tax.''

''(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BREAUX. Mr. President, my colleagues, the largest item in the Finance Committee bill, by far, is the $500 per child tax credit. It cost $141 billion over 7 years. That is a lot of money. Some people think we should not have a tax cut at all. But this bill is going to have a tax cut in it. The largest one is going to be a per child tax cut at $500 per child. I would think that all of us, if we know it is going to pass, should at least agree on one thing—the largest number of families that need it should get it.

Here is what my amendment does. It addresses a problem that is very real. Simply stated, the Republican proposal only is a credit against income tax. It is not a credit against the largest tax that people pay in this country, that is, the payroll tax. For 75 percent of American families, they pay more in payroll tax than in income tax. This child tax credit is not an offset against the payroll tax. This chart shows that. The blue line is the payroll taxes that people pay on average. The orange line is an estimate of their income tax.

So you see, families making $16,000, all the way up to families on this chart making almost $27,000, are paying far more in payroll taxes than they are paying in income taxes.

The figures show that under the Republican proposal, something like 44 percent of all the children in America would only get a partial or no credit at all, because the credit is only against the income tax. Many families do not even pay that much in income tax.

If you have a family that has two children, that is a $1,000 credit. But if they are only paying $700 or $500 in income tax, they do not get to use the credit. Therefore, simply stated, my amendment makes the $500 per child tax credit a credit against both the income tax or the payroll tax. We spend the same amount of money—not a dime more, not a dime less. But we cover 44 percent more children. We cover about 31 million more children living in families, and if we are going to spend this money for a credit, let us make sure they get it.

The second chart tells you what we are talking about when we look at family earnings and how much they pay in income taxes—the actual numbers. A family making $20,000 a year is at about $458 in income tax. That would not even pay for the credit for one child. But that same family is spending over $1,500—$1,530—in payroll tax. My amendment says that the $500 per child tax credit can be used as a credit against the payroll tax, as well as an income tax, so that the family making $20,000 will get some of the benefits of this massive program that we are passing. What is wrong with saying let us make sure that the most number of children get the benefit?

I have seen some of the Republican charts that say, well, under this credit, this proposal, we get a huge credit against income tax. Sure, the problem that is most families pay more in payroll tax, and it is no offset whatsoever against the payroll tax. So for families making under $30,000 a year, for most of them it is no benefit at all.

Look at this chart. This is every State in the country. This is the median household income. In Louisiana, it is $25,000. Under the Republican proposal, if you are in a family making less than $30,000 a year, you are not going to get the benefit of a per child tax credit. So my proposition is very simple. If you want to add about 31 million more people to the rolls and give them the benefit, for the same amount of money—exactly the same amount of money—my credit goes out to families making up to $75,000 a year. It starts to phase out at $60,000 and eliminates it at $75,000 per family, but it makes it refundable against a payroll tax. By spending the same amount of money, we cover 31 million more children. I think that is what we are trying to do.

I got this wonderful note from the Christian Coalition saying they are going to target this amendment. They say, ''We are going to portray this amendment as a vote to gut the $500 per child tax credit.'' It does not gut it; it is the same amount of money. We are just covering 31 million more children in this country by making it a credit against the payroll tax. They say they want to make sure they get the most number of people covered. That is exactly what my amendment does. They say, well, his starts to phase out at $60,000 per year. That is true,

but it goes up to the same amount, $75,000, that the original Republican proposal did. Just by making it refundable against the payroll tax——

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BREAUX. Forty-four percent more children are covered.

I urge adoption of this amendment.

Mr. DOMENICI. Mr. President, I yield 2½ minutes to the Senator from Minnesota.

Mr. GRAMS. Mr. President, first let me say that I agree with the Senator from Louisiana in wanting to make this tax cut refundable against the FICA or payroll tax, because I argued many months and many times that we should do this and expand the tax credit, because FICA is one of the most regressive.

But this is not the way to do it. This is not the way to pit one group of hard-working, tax-paying families against another group of families that struggle every day to try and make ends meet, to provide for his or her family.

Nearly 75 percent of the tax credits in the Republican plan go to families making under $75,000 a year, those hard-working families who have been asked to pay.

This is the real crux of the argument: They have been asked to pay more of their income to Federal taxes every year, year after year. Our plan does target low-income families with increases in the EITC credit, already giving $24 billion this year, growing to like $30 billion, and in the next year, $40 billion plus. So those families are seeing an increase in their earned-income tax credit. They are getting tax relief or more money in their pockets.

But who is forgotten? The families forgotten are those making between $30,000 and $75,000 a year. They are forgotten for the EITC program. They do not get the benefits here. Yet, they are remembered one day of the year—tax day—when they are asked to spend more and more of their money. I would like to work with the Senator from Louisiana to try and define ways to shrink the size of the Federal Government, to save additional moneys, to be able to expand even farther the tax credits, to give more persons tax relief. But let us not pit one group who are asked to pay and pay, and pay more of their income, as well as their FICA. Their FICA taxes are also being deducted.

Let us give them credits and not pit one against the other. Let us not take money from the taxpayers. Let us work to shrink the size of the Government and give more Americans more of their money back in the form of tax credits. I would like to work with the Senator from Louisiana in doing that. But I do not support this, and I urge my colleagues to vote no on the amendment.

Mr. BREAUX. Will the Senator from New Mexico yield me 60 seconds? I do not think I have any time left.

The PRESIDING OFFICER. The Senator from Louisiana has used his time. The Senator from New Mexico has 2 minutes 30 seconds.

Mr. DOMENICI. Mr. President, I rise in opposition to the amendment. First of all, everybody should know this amendment starts phasing out the child tax care credit at $60,000. The credit that we have in the Senate bill, when coupled with the earned-income tax credit, achieves the same goal as the Breaux amendment. It relieves the lower-income folks of the payroll burden. His would be to the contrary. The child credit and EIC is already in excess of the family's Federal payroll taxes. The employee and the employer share for families living at or near the poverty line. A family earning under $12,500, with two children, and families with earnings under $15,500 will have the same effect under our bill. Yet, we will be able to cover more Americans because we do not stop it at $60,000.

So I do not believe we ought to do this. Frankly, I am not a great fan of refundable anything because I believe they are rampant with fraud. We just got through a situation with EITC, and it is about 25 percent fraudulent because we are giving people a check back as a refundable tax credit. Some may be for that. I do not think it is a very good policy. The same thing will happen to this one if we do it this way.

Mr. GRAMS. If the Senator will yield, the Senator from Louisiana said more children would be covered. Actually, under his bill, because he would limit the age at 15 and not 17, as in our proposal, 5 million children between the ages of 16 and 17, whose families' income fall below $75,000 a year, would not be denied this child tax credit. It would cover fewer children and not more. So I think the whole crux of this plan is to give tax relief for families.

Mr. DOMENICI. Mr. President, in closing, I do not believe we ought to stop a child tax credit at 16 years of age. I have been through this, and that is about the time they start to get really expensive. There we are stopping it just about at that time, while in our bill we add two more years, which is much better in terms of really helping middle income families when they need it the most.

Mr. ABRAHAM. Mr. President, I will vote against the Breaux amendment. Although I have expressed support for making the $500-per-child tax credit refundable against the FICA tax, this amendment is the wrong way to achieve this objective. First, it dramatically limits the $55 credit for many middle-class families. Second, it limits the number of children who would qualify for the credit.

For families earning between $60,000 and $75,000, this amendment would unfairly prevent them from receiving the $500 child tax credit.

It is my hope that FICA refundability will be raised during conference and that a solution will be adopted which will provide much needed tax relief to all American families.

Mr. BREAUX. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. Mr. President, I move to table that amendment, and I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOMENICI. I think it comes to our side. Senator BOND is next.

Mr. EXON. When Senator BOND finishes, I wish to yield the 5 minutes on our side to the discretion of the Senator from Arkansas.

AMENDMENT NO. 2975

(Purpose: To increase the health insurance deduction for self-employed individuals and to strike the long-term care insurance provisions)

Mr. BOND. Mr. President, I thank my good friend and eminent leader of the Budget Committee for this time. I send an amendment to the desk on behalf of myself and Senator PRYOR and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Missouri [Mr. BOND], for himself and Mr. PRYOR, proposes an amendment numbered 2975.

Mr. BOND. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 1553, beginning with line 13, strike all through page 1588, line 24, and insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(l) is amended—

(1) by striking ''30 percent'' in paragraph (1) and inserting ''the applicable percentage'', and

(2) by adding at the end the following new paragraph:

''(6) APPLICABLE PERCENTAGE.—For purposes of paragraph (1), the applicable percentage shall be determined as follows:

''For taxable years beginning in	The applicable percentage is:
1996 and 1997	60
1998 and thereafter	100.''

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. There is a great injustice in our tax law, an injustice that I suspect everyone in this body has addressed at some time or another. That is the inequity in the deductibility of health insurance costs.

I do not think I need to tell my colleagues that corporations historically can deduct 100 percent of the health care insurance premium that they pay for employees, and the employees do not have to declare any of the employer-paid health insurance premiums as income. At the same time, the self-

employed farmers, the small business men and women of this country cannot deduct more than 30 percent.

This body took a great step forward earlier this year when we reinstated for last year the 25-percent deduction and increased that to 30 percent. Frankly, that is not enough.

In my role as chairman of the Small Business Committee, I have heard from small businesses in my State and across the country who are concerned, and greatly concerned, rightfully so, about health care.

The occupant of the chair and I know, because we have worked on health care issues over recent years, one of the biggest problems we face are those who are uninsured, because they are limited to a 30-percent deduction as self-employed people for health care insurance premiums.

Under the amendment that I am offering today with Senator PRYOR, we will increase the deduction for self-employed to 60 percent next year, 60 percent the following year, and then in the year 1998, increase that to 100 percent. Mr. President, I believe that is the way to achieve equity and ensure that more of the self-employed are insured.

The offset to this provision—we seek to offset by taking out the new program for long-term care insurance included in the Finance Committee markup. I think it is a good idea down the road, or perhaps even before we complete work on this bill, to start providing some incentives for long-term insurance. I think it makes a great deal of sense. I think first we have to address the basic inequity.

I reserve the remainder of my time.

Mr. PRYOR. Mr. President, I thank my colleague from Missouri for yielding to me, and I thank the distinguished manager, Senator EXON of Nebraska, for giving me the opportunity to address this issue.

We all know last spring the Congress passed and the President signed into law H.R. 831. This was a bill to restore the 25-percent health care deduction for the self-employed and for the farmers of America. As my colleagues may remember, Mr. President, this deduction had expired and the self-employed were receiving absolutely no health care deduction at all for a period of time. It was an absurd position in which to place small businesses and the family farm.

H.R. 831 also increased the deduction for 30 percent for 1995 and for all years in the future. It was a very good step, a positive step for small business and for the family farm.

I was proud, by the way, to join Senator ROTH and Senator BOND and others in a letter with 73 of our colleagues who promised not to offer or support any amendment on the floor. It was a strong statement, but we underscored our recognition of the importance of the health care deduction for the self-employed.

Last week when the tax bill came before the Senate Finance Committee, I was disappointed that the chairman's markup did not include any progress on the deduction front. I offered an amendment to increase this deduction to 50 percent—from 30 percent to 50 percent. I was further disappointed when this amendment failed on a party-line vote.

I am very proud to join with Senator BOND this evening on the floor of the Senate in an amendment to increase the self-employed deduction not to 50 percent, Mr. President, but to 100 percent. There is where it should be, and that is what our amendment does.

It is an issue of parity. It is an issue of increasing coverage for small business and for farmers, for making insurance more affordable. It would move the 30-percent rate to 60 percent in 1996 for deduction. In 1997, it would continue at 60 percent. By 1998, Mr. President, we would have a 100-percent deduction for small businesses, for the self-employed, and for the farm families of America. I think it would do more to basically make insurance more affordable and to provide insurance for many, many more millions of Americans that have labored under a very inequitable situation.

I reserve the remainder of my time.

Mr. BOND. Mr. President, I thank my distinguished colleague from Arkansas, who has been a champion of this deduction for a long time. It is a pleasure to work with him on this amendment.

I want to advise my colleagues that we have received strong letters of support from a whole host of organizations—agriculture and small business, including the Farm Bureau Federation, ABC, Chamber of Commerce, H.E.A.L., Association for Self-Employed, Association of Home Builders, Cattlemen's Association, National Restaurant Association, NFIB, National Retail Federation, Small Business Legislative Council, Society of American Florists.

I ask unanimous consent this be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

SUPPORT THE BOND/PRYOR AMENDMENT

OCTOBER 25, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Senate Committee on Small Business, Washington, DC.

DEAR SENATOR BOND: We, the undersigned organizations, support your and Senator Pryor's amendment to Reconciliation to increase health insurance deductibility for the self-employed.

For years, large corporations have been deducting 100 percent of the cost of their health insurance while self-employed business owners like sole proprietors, Subchapter S corporations and partnerships have been limited to 30 percent—which was just increased five percent this year. This is simply unfair and must be changed.

We believe that before the Congress authorizes a costly, new deduction for any other kind of health care benefit self-employed small business owners and farmers should get 100 percent health insurance deductibility.

Thank you for your leadership on behalf of the self-employed. We look forward to working with you to pass this important amendment. We urge all of your colleagues to support your amendment.

Sincerely,

American Farm Bureau Federation, Associated Builders and Contractors, Chamber of Commerce of the United States, H.E.A.L. (Healthcare Equity Action League),[1] National Association for the Self-Employed, National Association of Home Builders, National Cattlemen's Association, National Federation of Independent Business, National Restaurant Association, National Retail Federation, Small Business Legislative Council, Society of American Florists.

SMALL BUSINESS,
LEGISLATIVE COUNCIL,
Washington, DC, October 24, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: We strongly support your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care expenses.

As you know, sole-proprietors, partners and S Corporation shareholders can now deduct 30 percent of such costs. For many years, these individuals were not allowed to deduct health care costs at all. For a time, the deduction was 25 percent, but it was a temporary deduction and we found ourselves fighting each year to justify a provision that should not require a constant defense.

The prohibition on such deductions is an anachronism from the 1950s, based on an outdated concept of how business entities should be taxed under our system. In the modern day business environment, this policy is simply unfair. Frankly, we believe, if not for the issue of revenue, Congress would have already changed this law. It is time to address this inequity once and for all time.

The Small Business Legislative Council [SBLC] is a permanent, independent coalition of nearly one hundred trade and professional associations that share a common commitment to the future of small business. Our members represent the interests of small businesses in such diverse economic sectors as manufacturing, retailing, distribution, professional and technical services, construction, transportation, and agriculture. Our policies are developed through a consensus among our membership. Individual associations may express their own views. For your information, a list of our members is enclosed.

Sincerely,

GARY F. PETTY,
Chairman of the Board.

MEMBERS OF THE SMALL BUSINESS LEGISLATIVE COUNCIL

Air Conditioning Contractors of America,
Alliance for Affordable Health Care,
Alliance of Independent Store Owners and Professionals,
American Animal Hospital Association,
American Association of Equine Practitioners,
American Association of Nurserymen,
American Bus Association,
American Consulting Engineers Council,
American Council of Independent Laboratories,

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[1] The Healthcare Equity Action League (HEAL) was formed in 1991, and is the oldest and largest business community coalition supporting healthcare reform. It is comprised of over 600 companies, associations, and local Chambers of Commerce, representing over 1 million employers and 35 million employees.

American Gear Manufacturers Association,
American Machine Tool Distributors Association,
American Road, Transportation Builders Association,
American Society of Interior Designers,
American Society of Travel Agents, Inc.,
American Subcontractors Association,
American Textile Machinery Association,
American Trucking Associations Inc.,
American Warehouse Association,
AMT—The Association of Manufacturing Technology,
Architectural Precast Association,
Associated Builders & Contractors,
Associated Equipment Distributors,
Associated Landscape Contractors of America,
Association of Small Business Development Centers,
Automotive Service Association,
Automotive Recyclers Association,
Automotive Warehouse Distributors Association,
Bowling Proprietors Association of America,
Building Service Contractors Association International,
Christian Booksellers Association,
Cincinnati Sign Supplies/Lamb and Co.,
Council of Fleet Specialists,
Council of Growing Companies,
Direct Selling Association,
Electronics Representatives Association,
Florists' Transworld Delivery Association,
Health Industry Representatives Association,
Helicopter Association International,
Independent Bankers Association of America,
Independent Medical Distributors Association,
International Association of Refrigerated Warehouses,
International Communications Industries Association,
International Formalwear Association,
International Television Association,
Machinery Dealers National Association,
Manufacturers Agents National Association,
Manufacturers Representatives of America, Inc.,
Mechanical Contractors Association of America, Inc.,
National Association for the Self-Employed,
National Association of catalog Showroom Merchandisers,
National Association of Home Builders,
National Association of Investment Companies,
National Association of Plumbing-Heating-Cooling Contractors,
National Association of Private Enterprise,
National Association of Realtors,
National Association of Retail Druggist,
National Association of RV Parks and Campgrounds,
National Association of Small Business Investment Companies,
National Association of the Remodeling Industry,
National Chimney Sweep Guild,
National Electrical Contractors Association,
National Electrical Manufacturers Representatives Association,
National Food Brokers Association,
National Independent Flag Dealers Association,
National Knitwear & Sportswear Association,
National Lumber & Building Material Dealers Association,
National Moving and Storage Association,
National Ornamental & Miscellaneous Metals Association,
National Paperbox Association,
National Shoe Retailers Association,
National Society of Public Accountants,
National Tire Dealers & Retreaders Association,
National Tooling and Machining Association,
National Tour Association,
National Wood Flooring Association,
NATSO. Inc.,
Opticians Association of America,
Organization for the Protection and Advancement of Small Telephone Companies,
Petroleum Marketers Association of America,
Power Transmission Representatives Association,
Printing Industries of America, Inc.,
Professional Lawn Care Association of America,
Promotional Products Association International,
Retail Bakers of America,
Small Business Council of America, Inc.,
Small Business Exporters Association,
SMC/Pennsylvania Small Business,
Society of America Florists,
Turfgrass Producers International.

NATIONAL ASSOCIATION
FOR THE SELF-EMPLOYED,
Washington, DC, October 25, 1995.

Hon. KIT BOND,
Chairman, Senate Small Business Committee, Washington, DC.

DEAR CHAIRMAN BOND: It is my understanding that you intend to offer an amendment during the budget debate that would raise the health insurance deduction for the self-employed from the current 30 percent level to 100 percent. On behalf of the National Association for the Self-Employed, I completely support your efforts.

Raising this deduction level would create tax equity between corporate America and small business. Currently, large businesses can deduct 100 percent of the premiums they pay on behalf of their employees for health insurance coverage. The self-employed can only deduct 30 percent of their costs. And the self-employed who pay for their own insurance are primarily paying with after-tax dollars, effectively making the policies more expensive. A 100-percent deduction would give the self-employed the equity they deserve.

Also a 100-percent deduction would enable many self-employed to purchase a health insurance policy, a luxury many cannot currently afford. I believe passing a 100-percent deduction would significantly decrease the number of uninsured individuals in this country.

We have polled our 320,000 self-employed members and 100-percent deductibility of health insurance premiums is the No. 1 issue of concern to them. Please do not hesitate to call on me. I stand ready to assist your efforts in any way I can.

Sincerely,

BENNIE L. THAYER,
President/CEO.

CHAMBER OF COMMERCE OF THE
UNITED STATES OF AMERICA,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Small Business Committee, U.S. Senate, Washington, DC.

DEAR KIT: The U.S. chamber of Commerce Federation of 215,000 businesses (96% of whom are small businesses), 3,000 state and local chambers of commerce, 1,200 trade and professional organizations, and 75 American chambers of commerce abroad strongly supports your small business amendment to the Balanced Budget Reconciliation bill. Your amendment would allow the self-employed and small businesses to deduct 100% of their health insurance costs, a benefit currently available only to large corporations.

As you know, the Chamber has long maintained that the self-employed and unincorporated small businesses should receive the same tax treatment currently available to corporations. Sound tax policy dictates full deductibility of premium of self-insurance cost as ordinary and necessary business expenses. There is no valid tax policy reason for treating the smallest businesses any differently. It is vitally important to the nation's economic security that the smallest businesses, frequently new and often struggling, should be granted a measure of security equal to that of larger corporations.

Once again, the Chamber commends your work on behalf of our nation's small businesses and looks forward to working with you towards resolving this issue. The inability of the nation's smallest businesses to deduct the full cost of their health insurance, and the inequity in being denied an advantage granted to their incorporated fellows, has been a thorn in the side of small business and the self-employed for years. It is time that thorn is removed and equality is restored.

Sincerely,

R. BRUCE JOSTEN.

PROMOTIONAL PRODUCTS
ASSOCIATION INTERNATIONAL,
Irving, TX, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the Promotional Products Association International (PPA), I wish to express our support for your amendment to increase the deduction the self-employed may take for their own health care costs.

Under current law, they may deduct only 30 percent of their health care costs, and the current deduction was only recently made permanent. For the millions of sole proprietors, partners, and S Corporation shareholders, including PPA members, this is an unfair penalty with no sound basis in tax policy.

The current policy dates back to another era in tax policy, when business entities such as sole proprietorships were viewed upon with great suspicion. Now, decades later, economic and social policy has evolved to the point where we find more and more individuals opting to structure their small business in such a fashion. These small businesses are an increasingly important source of strength in our economy.

It is time to give them the same opportunity to deduct their health care costs as any other business.

The promotional products industry is the advertising, sales promotion, and motivational medium employing useful articles of merchandise imprinted with an advertiser's name, logo, or message. Our industry sales are over $6 billion and PPA members are manufacturers and distributors of such goods and services.

Sincerely,

H. TED OLSON, MAS,
President.

NATIONAL HOME
FURNISHINGS ASSOCIATION,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Home Furnishings Association [NHFA], I wish to express our strong support for your amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is long overdue.

It is unfair to penalize small business owners solely because they elect to do business as a sole proprietorship, partnership, or S Corporation, yet that is what the current tax code does with respect to their own health care costs.

As you know, for the first time this year, the self-employed can deduct 30 percent of their health care costs. For many years, they were not allowed to deduct even that much. We all know what health care costs these days, and it is simply unfair to impose such a harsh penalty which does not have any sound tax policy justification to support it.

The NHFA represents approximately 2,800 retailers of home furnishings throughout the United States. Thank you for your efforts on our behalf.

Sincerely,

PATRICIA N. BOWLING,
Executive Vice President.

WORLD FLOOR
COVERING ASSOCIATION,
Washington, DC, October 26, 1995.

Hon. CHRISTOPHER BOND,
Chairman, Committee on Small Business, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the World Floor Covering Association [WFCA], representing floorcovering retailers throughout the United States, I wish to express our strong support for our amendment to the budget reconciliation bill to increase the deduction the self-employed may take for their own health care costs. It is about time this inequity in our tax policy was resolved once and for all.

Mr. BOND. Now, Mr. President, I know there are a number of my colleagues who feel very strongly about the long-term care insurance program. We have had discussions about finding other offsets to this amendment so that we may be able to start on that long-term care prospect. I will be most anxious to work with my colleagues because I think everybody here at one time or another has expressed his or her strong support for the full deductibility of health care.

With that, I ask unanimous consent that I be permitted to modify the amendment prior to a vote on it.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Reserving the right to object, I do not understand what that means.

Mr. BOND. Mr. President, if I could respond.

Mr. DOMENICI. You mean, if you find another source of revenue?

Mr. BOND. There are minds far brighter than mine and people with far greater access to the intricacies of this measure who are embarking on a good-faith effort to find offsets to get them scored by the Joint Tax Committee.

I sincerely hope we can find a way to accommodate both the long-term insurance and the health care. I believe very strongly that the health care deductibility for self-employed must be done. I would like to be able to work with my colleagues who support the long-term insurance program so that can be accomplished.

At this point we do not have an offset. I want to make sure this measure is before us.

The PRESIDING OFFICER. Is there objection?

Mr. DOMENICI. Senator DOLE wants to be recognized in opposition.

Mr. DOLE. Only in opposition to the long-term care.

I think in this matter, a lot of the debate in the last 2 or 3 days has been long-term care—Medicare, Medicaid. We are trying to get the younger people involved in long-term care so that when they arrive at their senior years, they will have long-term care through the private sector.

It is something we have worked on in a bipartisan way in the Finance Committee for years. We finally have it in the bill. We believe it is a very good provision.

I do not object to the amendment that is pending. I hope they can find another revenue source. I support what Senator BOND and Senator PRYOR are trying to do. The self-employed should have the same rights as everyone else, the same deduction. I hope that if we can find another revenue source—because I really believe the long-term care amendment, although this is very important, is just as important, or we will be back here in 10, 15, 20 years, somebody will be back here wondering why we did not do something to get people interested in buying insurance and getting a deduction.

I hope we can resolve it before we have the vote.

The PRESIDING OFFICER. Is there objection to the request?

Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, we said we had no objection.

The PRESIDING OFFICER. The request is agreed to.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I think we were entitled to 5 minutes in opposition, because the other side was in favor. But I am just going to take a minute and say I compliment Senator BOND for what he is trying to do. But I, too, hope he will find another offset, because I truly believe, in the midst of a national debate on Medicare and Medicaid, much of which is long-term care, we have come to the conclusion that the missing link out there is that not many people have long-term care protection.

That is getting to be a bigger and bigger burden of our Government. We are going to be less and less able to do it. That we start, in this bill, moving in the direction of letting that happen for people who want to save for themselves and buy insurance and get an appropriate credit, seems to me to be very positive. I hope the Senator from Missouri, for whom I have great respect, would agree with that.

The PRESIDING OFFICER. The Senator from Missouri.

Mr. BOND. Mr. President, I cannot disagree with a thing my distinguished colleague from New Mexico has said. I had the pleasure of meeting with business men and women in his State. Both of these are important in his State, my State, and the rest of the country.

I do want to make sure this bill has the deductibility phased in, full deductibility for the self-employed and small businesses. We are most anxious to work cooperatively with colleagues on both sides to accomplish this.

Mr. DOMENICI. I yield back any time I had in opposition.

Several Senators addressed the Chair.

The PRESIDING OFFICER. The Senator from Arkansas has 2 minutes and 9 seconds.

Mr. PRYOR. Will Senator EXON like some time?

Mr. EXON. I will wait until the Senator finishes.

Mr. PRYOR. Mr. President, just for 1 minute. On many occasions we, all of us, I assume, have gone to town meetings or wherever and said we believe the self-employed, small business, farmers of our country need to have the same rights and same deductibility, especially in purchasing their health care coverage for themselves and their employees. This is exactly what Senator BOND and I are trying to craft tonight, that opportunity. I hope we can give that to these individuals who truly create the jobs in America and who really are deserving of this opportunity to participate in the health care system of America.

I hope we can work out something and I pledge my best efforts to do so.

Mr. EXON. Mr. President, do I have any time remaining?

The PRESIDING OFFICER. The Senator from Nebraska has 1 minute and 15 seconds.

Mr. EXON. I would like to use that 1 minute, if I might, for a brief colloquy between myself and the chairman of the committee. I think we can jointly announce some good news. I think we are moving quite well here. The amendments I have next, that I think are agreed to on the other side—next will be Senator BIDEN, then Senator SNOWE, then Senator DORGAN, then Senator PHIL GRAMM of Texas, and then Senator KERRY of Massachusetts.

I am pleased with the way we are cooperating on both sides and the fact the Senators are here, prepared to offer their amendments in a timely fashion.

Is that the schedule for the next amendments, in that order?

Mr. DOMENICI. Yes. I would make sure and confirm on our side that, when we have done Senator GRAMM of Texas, it is my calculation that we will have had 8 of our 10, still leaving us with 2. If that is everybody's understanding, then I am perfectly in accord.

Mr. EXON. It appears to me that is accurate.

Mr. WELLSTONE. Will the Senator yield for just a moment? I did not hear the Senator from Nebraska. What was the order of the next 50 minutes, did he say?

Mr. EXON. The next amendments, 10 minutes each, equally divided. The next will be Senator BIDEN followed by Senator SNOWE followed by Senator DORGAN followed by Senator PHIL

Gramm of Texas followed by Senator KERRY of Massachusetts.

With that, I yield 5 minutes to Senator BIDEN, from the State of Delaware.

The PRESIDING OFFICER. The Senator from Delaware.

MOTION TO COMMIT

Mr. BIDEN. Mr. President, I send a motion to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Delaware [Mr. BIDEN] proposes a motion to commit with instructions.

Mr. BIDEN. Mr. President, I ask unanimous consent that reading of the motion be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The motion is as follows:

MOTION TO COMMIT WITH INSTRUCTIONS

Mr. President, I move to commit the bill S. 1357 to the Committee on Finance with instructions that the Committee on Finance report the bill back to the Senate within 3 days (not to include any day the Senate is not in session) with identical language, except that the Committee on Finance shall include a provision in the bill which would provide tax relief to middle-class American families and which would help middle-class families meet the rapidly rising costs of a higher education by providing a tax deduction of up to $10,000 per year for the costs of a college education for individual taxpayers with adjusted gross income of not more than $90,000 and for married couples with adjusted gross incomes of not more than $120,000. The Committee on Finance should also include a provision which offsets the costs of this proposed tax deduction by restricting the growth of tax expenditures, except for the deductions for mortgage interest, health insurance, state and local taxes, and charitable contributions.

Mr. BIDEN. Mr. President, this goal is straightforward. It is simple and I think consistent with what I heard everyone over the last 2 years talk about. We all stand before this body, in both parties—I do not question the motivation of anyone in either party—and we always talk about the need to give immediate relief to middle-class taxpayers. Admittedly, in this bill there is some relief for middle-class taxpayers in the tax portion, and that is the $500 child care tax credit. I would argue—I will not take the time now—the additional cost to middle-class families as a consequence of the cuts in Medicare and Medicaid will offset that, but that is a different question.

One of the things we also talk about is the goal and dream of every American family, whether it is the richest businessman or poorest welfare mother, and every middle-class family, and that is providing for the education for their children.

Frankly, as the Presiding Officer knows, it is getting harder and harder for middle-class families—and I mean that in a broad range, people making from $30,000 to $90,000 individually or up to $120,000 as a family—to be able to afford a college education. I would like to take a look at what is happening here, very quickly, in the limited amount of time that I have. This is what has happened since 1980.

The orange represents the cost of public college tuition. I want to make sure we understand now I am talking about State universities. I am not talking about private universities, whether the Syracuses or the Harvards or the Yales or the Georgetowns of the world, which are a great deal more expensive than the cost of public tuition and fees. And I am not even talking about room and board. I am not even talking about that—just college tuition and fees. Since the 1980's the college tuition and fees for public universities have increased 236 percent. The median household income in America has gone up 82 percent.

If you go back to 1980 you can see how every single, solitary year the gap is widening, in what I do not know anyone would disagree with is the ultimate middle-class dream most American families have, like the one my father had, he never went to college: give my son and my daughter a college education.

When I went to school, this gap was not so wide. If you take a look at what has happened in terms of, again, income for median families, middle-income families, in 1980, 4.5 percent of median household income was what it cost to send someone to college. Now that is almost doubled, it is 8.4 percent. That is for one child.

The bottomline is it is getting incredibly difficult for middle-class families, or any family to send their child to college. So the result is, in 1980, as I said, it took 4.5 percent of the median household income to pay for tuition and fees. I am not talking, now, about room and board. Today it takes 8.4 percent, almost double, just for tuition and fees for a public university.

Education is one of the best investments we can make in American society. I have voted for investment tax credit for businesses. I voted for tax credits for them buying machinery and all of those things which make sense in my view.

I can think of nothing that makes more sense than encouraging American families to invest in a post-high school education for their children. It seems to me it is about time they should get a break.

Mr. President, to reiterate, this motion to recommit is simple. It instructs the Finance Committee to include in the budget reconciliation bill a tax deduction of up to $10,000 for the costs of a college education.

Let me tell you why this is important. In my years of public service, I have found that no matter what differences may divide us, there is always one constant thing that unites us. We all have the same dream.

Think about it. No matter who you talk to—black or white, rich or poor—every American family dreams that their children will go to college. It was my dad's dream for his children, and it was, and is, my dream for my children. It remains the dream of every middle-class American family.

But, that dream is now at risk. This last summer, a poll was conducted of undergraduate students and parents with children in college. Of those surveyed, 87 percent—nearly 9 out of every 10 Americans—believe that the cost of college is rising so fast that it will soon be out of reach for most Americans.

It should be no surprise why the overwhelming majority of Americans believe that. At the rate we are going, it is true. It is getting harder and harder for middle-class Americans to afford a college education.

It makes you begin to wonder what exactly the word public means when you say ''public higher education.''

A college education is slipping out of reach of middle-class Americans. And, if they still want to fulfill the dream, it means that more and more young people must borrow more and more money to go to college.

One more statistic—and perhaps the one that boggles my mind the most. Of all the money ever borrowed under the Federal Government's guaranteed student loan program, 22 percent of it has been borrowed in the last 2 years.

Let me say that again. The guaranteed student loan program has been with us for 30 years. And, of all the money borrowed during that time, almost one-fourth of it has been borrowed in just the last 2 years.

We are saddling the next generation with enormous debt before their adult lives even begin. And, I am not talking about the abstract terms of the Federal debt. No, this is saddling the next generation with individual, personal debt.

When today's college students walk down the aisle at graduation, they are handed not only a diploma, but a big i-o-u. And, for too many, it is either that, or no college at all.

So, I have a very simple proposition. We should give a tax deduction of up to $10,000 per year for the costs of a college education. Under my motion to recommit, this tax deduction would be limited to single taxpayers with incomes under $90,000 and to married couples with incomes under $120,000. And, it would be paid for by limiting the growth—not cutting, just limiting the growth—in tax expenditures.

Mr. President, education is one of the best investments we as a society can make. It is one of the best measurements of future economic well-being. And, it is more important now than ever before. Previous generations could make a solid middle-class living with only a high school education. No more.

In fact, there was an interesting point made in a Wall Street Journal article last week. Working families save primarily by investing in human capital—that is, education.

Yet, when businesses invest in machine capital, they are not taxed. Middle-class families, when they invest in

education, are taxed to the hilt. Education is treated as consumption, not investment.

And, as a Nobel Prize economist once put it, the tax code treats machines better than it does people.

It is time for that to change.

From the establishment of the land-grant university system in the late 1800's to the GI bill at the end of World War II to the creation of the PELL Grant and Guaranteed Student Loan programs in the 1960s, the Federal Government has been committed to seeing that young people desiring to go to college would not be turned away because of the cost. It was a national goal to see a college education within reach of every American.

Now, as that goal begins to slip out of reach for many middle-class families, it is time to renew our commitment to ensuring access to a college education for all Americans. I urge my colleagues to support this proposal.

I reserve the remainder of my time if I have any.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, I regrettably disagree with my friend from Delaware. Actually, to pick out two of the many tax expenditures, that is, two mortgage deductions—that is a very large one—and health insurance and freeze all the rest seems to me totally unreasonable. Let me just go through a couple.

We are freezing pension contributions. That is one of the largest tax expenditures we have, and we think it is fair. Education that employees get from their corporations, you would freeze that deduction. The R&D tax credits for American corporations. The one thing they have asked for is that they get to deduct in a special way the research and development costs of their business, something needed to keep them competitive. Arbitrarily we decide those are all frozen so that we can provide this special tax treatment for those people with children going to college.

Now, we would like to do that. We would like to do a lot of things, but, frankly, to take the tax code and say all these other provisions that are good for our country, we just decide to freeze them so we can do that, in light of the fact that we have provided significant assistance to middle-income Americans—in this bill, there is a credit for student loan interest, a credit for 20 percent of the interest paid on the student loan during the taxable year if the taxpayer has an adjusted gross income of $40,000 to $50,000 as a single taxpayer, $60,000 to $75,000 as a couple—it is capped at $500 per year per borrower, $1,000 per return—that is pretty fair. With all the other things we are trying to do, it seems to me we ought to in a more orderly way look at such things as the pension deductions and the expenditures for education that employers give to employees, and many other good tax expenditures that are out there right now working for Americans.

So at the right time, I will move to table the amendment, but for now I yield back the remainder of my time.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from Delaware is recognized for 53 seconds.

Mr. BIDEN. Mr. President, I know my friend has put a whole flock of kids through college, and so I know his commitment to college.

Let me just say very briefly my amendment restricts the growth of tax expenditures in those areas. It does not in fact freeze them.

No. 2, tell middle-class taxpayers that R&D is more important for corporations, which I support, than freezing—even if you were to freeze—than it is to be able to send their kid to college. Ask the average middle-class American taxpayer what is a better investment. Who is going to do the R&D if we do not get these kids to college?

Lastly, I say to my friend, the $500 cap on student loan interest is worthwhile and is necessary but it does not compare to $10,000 that a middle-class family would be able to deduct. They need help now. They need help now, Mr. President, and this is the most direct and immediate way to do it.

I thank the Chair. I thank my colleagues.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I think it returns to our side and Senator SNOWE has an amendment at this time.

The PRESIDING OFFICER. The Senator from Maine.

Mr. EXON. Before Senator SNOWE is recognized, to expedite things, when Senator SNOWE finishes, I yield half of our 5 minutes to the Senator from West Virginia, who I understand also supports it.

I reserve the other half of the time in case any opposition surfaces.

Ms. SNOWE addressed the Chair.

The PRESIDING OFFICER. The Senator from Maine.

AMENDMENT NO. 2976

(Purpose: To express the sense of the Senate regarding the coverage of treatment for breast and prostate cancer under Medicare)

Ms. SNOWE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report the amendment.

The assistant legislative clerk read as follows:

The Senator from Maine [Ms. SNOWE], for herself, Mr. D'AMATO, Mr. SHELBY, Mr. BIDEN, Mr. MACK, Mrs. HUTCHISON, and Mr. GRAMM, proposes an amendment numbered 2976.

Ms. SNOWE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

On page 606, between lines 13 and 14, insert the following:

SEC. 7058. SENSE OF SENATE REGARDING COVERAGE FOR TREATMENT OF BREAST AND PROSTATE CANCER UNDER MEDICARE.

(a) FINDINGS.—The Senate finds that—

(1) breast and prostate cancer each strike about 200,000 persons annually, and each claims the lives of over 40,000 annually;

(2) medicare covers treatments of breast and prostate cancer including surgery, chemotherapy, and radiation therapy;

(3) the Omnibus Budget Reconciliation Act of 1993 (OBRA) expanded medicare to cover self-administered chemotherapeutic oral-cancer drugs which have the same active ingredients as drugs previously available in injectable or intravenous form;

(4) half of all women with breast cancer, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy administered through oral cancer drugs which have never been available in injectable or intravenous form; and

(5) medicare's failure to cover oral cancer drugs for hormonal therapy makes the covered treatments less effective.

(b) SENSE OF SENATE.—It is the sense of the Senate that medicare should not discriminate among breast and prostate cancer victims by providing drug treatment coverage for some but not all such cancers, and that the budget reconciliation conferees should amend medicare to provide coverage for these important cancer drug treatments.

Ms. SNOWE. I thank the Chair.

I am offering this amendment in conjunction with Senators D'AMATO, SHELBY, BIDEN, MACK, HUTCHISON, and GRAMM that expresses the sense-of-the-Senate that the budget reconciliation conferees should amend Medicare to provide coverage for certain oral cancer drugs that are of enormous benefit to breast and prostate cancer victims. Currently, Medicare discriminates among breast and prostate cancer victims by providing certain drug treatment coverage for some but not all such cancers.

Back in 1993, when Congress expanded Medicare to help pay for the diagnosis and treatment of breast cancer, gaps in coverage were inadvertently created which denied coverage for certain oral cancer drugs. This is because in 1993, the Medicare OBRA provisions allowed the coverage of oral cancer drugs that were previously available in injectable or intravenous form.

However, half of all women with breast cancer, that is, 50 percent, and thousands of men with prostate cancer which has spread beyond the prostate, need hormonal therapy that is administered through oral cancer drugs that have never been available in injectable or intravenous form.

Let us consider the potential benefit of covering these oral estrogen-based cancer drugs for elderly populations.

Breast cancer and prostate cancers are very similar. First, both diseases strike approximately 200,000 Americans per year.

Second, both diseases take over 40,000 lives each year. While breast cancer affects 1 in 9 women, prostate cancer affects 1 in 11 men every year, and for both diseases the number of reported cases is rising rapidly. In fact, the number of reported cases of prostate

cancer is increasing to an alarming degree, an expected 90 percent increase between 1983 and the year 2000.

Finally, these diseases are prevalent among women and men whose age makes them eligible for Medicare.

The Congressional Budget Office's preliminary analysis revealed the coverage of the breast cancer portion of this amendment at a savings of $156 million over 7 years.

So I am asking, Mr. President, that we support this resolution because I think it is the next logical step in fighting both breast cancer and prostate cancer. It does not make sense that we do not provide coverage for the next generation of drug treatment for both prostate and breast cancer treatment. It will save money in the long run under Medicare, and it certainly will make it easier to be administered to those patients, especially those who live in rural areas because it is an oral type of drug rather than having to be administered in outpatient or in inpatient facilities.

In 1991, Congress made a significant investment under the Medicare provisions for breast cancer screening. It only makes sense then to provide this kind of extensive coverage with the new kinds of drugs that are coming on the market that will be reimbursed under the Medicare system. By denying coverage for treatment to half the population of breast cancer patients, we are not taking full advantage of the investment that Congress has already made.

In 1994 alone, Medicare will have spent an estimated $640 million on breast cancer treatment. Yet, here we find that Medicare will not cover some of the treatments that could be provided for women because they do not reimburse an oral form of drug. In this case, for example, it is tamoxifen. Tamoxifen is a new drug on the market for the treatment of breast cancers at certain stages and yet because it was not available in intravenous or injectable form it cannot be reimbursed under the Medicare system because it is an oral drug. I do not think it makes sense. It certainly does not make sense for the future. It does not make sense for the lives and the health of the individuals who are victims of breast or prostate cancer.

So I would urge that the Senate go on record in preventing the recurrence of breast and prostate cancer by advocating that Medicare reimburse for such coverage.

Mr. President, I would ask for the yeas and nays, and I reserve the remainder of my time.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator COHEN, of Maine, as a cosponsor.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from West Virginia.

Mr. BIDEN addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia has 2½ minutes.

Mr. ROCKEFELLER. I yield 10 seconds to the Senator from Delaware.

Mr. BIDEN. Mr. President, I thank the Senator. I wish to thank my colleague from Maine. As an original cosponsor of her amendment, I would like to point out two things very quickly.

One, this was an oversight in the first place. It was never intended that this drug should not be covered. And No. 2, it is vitally important to the health and safety of millions of Americans. I think it is a good amendment, and I am glad she is introducing it.

Mr. ROCKEFELLER. Mr. President, let me put this in two forms. One is, I think this amendment has a virtuous purpose, and I will support it. It is a wish. It is just simply a wish. That is why it is put in the form of a sense of the Senate. We are hoping that the reconciliation conferees will approve Medicare. I support it. In fact, I worked on matters of this oral use of cancer pills and other things in the past.

But I would be very surprised, quite frankly, if we can in Medicare buy a single new aspirin, much less prostate cancer and breast cancer remedies, under the $270 billion cut which the underlying bill of the majority contemplates, let alone any more coverage whatsoever for cancer. And I think that Senator SNOWE understands that, making this, therefore, a sense of the Senate.

Keep in mind, please, my colleagues, that we are cutting $270 billion. We were devastating everything from graduate medical education to rural hospitals, to premiums, to original research in any area. You are going to find a lot of people—in fact, I notice our colleague from Massachusetts coming in—you will find a lot of people not going into research medicine to come up with new cures for prostate cancer or breast cancer because of what is happening to graduate medical institutions.

But all we had to do to get this amendment and to be able to pass this amendment was, in fact, to do what the Democrats wanted to do, which was simply cut $89 billion from Medicare. But, no, they wanted to cut $270 billion in order to be able to——

The PRESIDING OFFICER (Mr. KYL). The Senator has used his 2½ minutes.

The Senator from Nebraska controls the time.

Mr. EXON. I will be glad to yield—has the Senator finished? Does the Senator need more time?

Mr. ROCKEFELLER. One minute.

Mr. EXON. I yield 1 minute to the Senator from West Virginia.

Mr. ROCKEFELLER. Medicare, let us face it, has been put on the chopping block. These are huge, huge cuts that are going to be made in the next 7 years that our people have absolutely no concept of. And here we are talking about adding on services. I am for that. I am for Senator SNOWE. She is an excellent Senator, and her sense-of-the-Senate resolution is excellent and it should be supported.

But the division on the one hand of the virtue of that purpose and the utter devastation of Medicare is a very awkward coupling, to say the very least. I hope and pray Medicare can do more for breast cancer, for prostate cancer, but I will guarantee you it cannot so long as we are cutting $270 billion out of it.

The PRESIDING OFFICER. Who yields time?

Mr. EXON. Mr. President, since no others are seeking time, I will be glad to yield back our time.

Is there any time on this side?

Ms. SNOWE. Mr. President, I ask unanimous consent to include Senator JEFFORDS as a cosponsor of this amendment, and I will yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. Has all time been yielded back on both sides?

The PRESIDING OFFICER. Not all time has been yielded back yet.

Mr. EXON. May I request all time be yielded back? I yield back our time.

Mr. DOMENICI. Does the Senator yield back all his?

The PRESIDING OFFICER. The Senator from Maine yields back. All time is yielded back.

Mr. EXON. I believe the next order of business would be an amendment offered by Senator DORGAN of North Dakota.

I yield 5 minutes to him at this time.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

AMENDMENT NO. 2977

(Purpose: To end deferral for United States shareholders on income of controlled foreign corporations attributable to property imported into the United States)

Mr. DORGAN. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. KENNEDY, Mr. REID, Mr. FEINGOLD and Mr. BUMPERS, proposes an amendment numbered 2977.

Mr. DORGAN. Mr. President, I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII, insert the following new section:

SEC. 2. TAXATION OF INCOME OF CONTROLLED FOREIGN CORPORATIONS ATTRIBUTABLE TO IMPORTED PROPERTY.

(a) GENERAL RULE.—Subsection (a) of section 954 (defining foreign base company income) is amended by striking ''and'' at the end of paragraph (4), by striking the period at the end of paragraph (5) and inserting '', and'', and by adding at the end the following new paragraph:

''(6) imported property income for the taxable year (determined under subsection (h) and reduced as provided in subsection (b)(5)).''

(b) DEFINITION OF IMPORTED PROPERTY INCOME.—Section 954 is amended by adding at the end the following new subsection:

''(h) IMPORTED PROPERTY INCOME.—

''(1) IN GENERAL.—For purposes of subsection (a)(6), the term 'imported property income' means income (whether in the form of profits, commissions, fees, or otherwise) derived in connection with—

''(A) manufacturing, producing, growing, or extracting imported property,

''(B) the sale, exchange, or other disposition of imported property, or

''(C) the lease, rental, or licensing of imported property.

Such term shall not include any foreign oil and gas extraction income (within the meaning of section 907(c)) or any foreign oil related income (within the meaning of section 907(c)).

''(2) IMPORTED PROPERTY.—For purposes of this subsection—

''(A) IN GENERAL.—Except as otherwise provided in this paragraph, the term 'imported property' means property which is imported into the United States by the controlled foreign corporation or a related person.

''(B) IMPORTED PROPERTY INCLUDES CERTAIN PROPERTY IMPORTED BY UNRELATED PERSONS.—The term 'imported property' includes any property imported into the United States by an unrelated person if, when such property was sold to the unrelated person by the controlled foreign corporation (or a related person), it was reasonable to expect that—

''(i) such property would be imported into the United States, or

''(ii) such property would be used as a component in other property which would be imported into the United States.

''(C) EXCEPTION FOR PROPERTY SUBSEQUENTLY EXPORTED.—The term 'imported property' does not include any property which is imported into the United States and which—

''(i) before substantial use in the United States, is sold, leased, or rented by the controlled foreign corporation or a related person for direct use, consumption, or disposition outside the United States, or

''(ii) is used by the controlled foreign corporation or a related person as a component in other property which is so sold, leased, or rented.

''(3) DEFINITIONS AND SPECIAL RULES.—

''(A) IMPORT.—For purposes of this subsection, the term 'import' means entering, or withdrawal from warehouse, for consumption or use. Such term includes any grant of the right to use an intangible (as defined in section 936(b)(3)(B)) in the United States.

''(B) UNRELATED PERSON.—For purposes of this subsection, the term 'unrelated person' means any person who is not a related person with respect to the controlled foreign corporation.

''(C) COORDINATION WITH FOREIGN BASE COMPANY SALES INCOME.—For purposes of this section, the term 'foreign base company sales income' shall not include any imported property income.''

(c) SEPARATE APPLICATION OF LIMITATIONS ON FOREIGN TAX CREDIT FOR IMPORTED PROPERTY INCOME.—

(1) IN GENERAL.—Paragraph (1) of section 904(d) (relating to separate application of section with respect to certain categories of income) is amended by striking ''and'' at the end of subparagraph (H), by redesignating subparagraph (I) as subparagraph (J), and by inserting after subparagraph (H) the following new subparagraph:

''(I) imported property income, and''.

(2) IMPORTED PROPERTY INCOME DEFINED.—Paragraph (2) of section 904(d) is amended by redesignating subparagraphs (H) and (I) as subparagraphs (I) and (J), respectively, and by inserting after subparagraph (G) the following new subparagraph:

''(H) IMPORTED PROPERTY INCOME.—The term 'imported property income' means any income received or accrued by any person which is of a kind which would be imported property income (as defined in section 954(h)).''

(3) LOOK-THRU RULES TO APPLY.—Subparagraph (F) of section 904(d)(3) is amended by striking ''or (E)'' and inserting ''(E), or (H)''.

(d) TECHNICAL AMENDMENTS.—

(1) Clause (iii) of section 952(c)(1)(B) (relating to certain prior year deficits may be taken into account) is amended by inserting the following subclause after subclause (II) (and by redesignating the following subclauses accordingly):

''(III) imported property income,''.

(2) Paragraph (5) of section 954(b) (relating to deductions to be taken into account) is amended by striking ''and the foreign base company oil related income'' and inserting ''the foreign base company oil related income, and the imported property income''.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section shall apply to taxable years of foreign corporations beginning after December 31, 1995, and to taxable years of United States shareholders within which or with which such taxable years of such foreign corporations end.

(2) SUBSECTION (C).—The amendments made by subsection (c) shall apply to taxable years beginning after December 31, 1995.

Mr. DORGAN. This is a very important amendment. It is one that actually has previously been passed by the House of Representatives a few years ago. My amendment simply ends something called ''deferral'' for someone who closes their plant in the United States, moves it to a tax haven country, makes the same product and ships it back to the United States. This is about moving jobs overseas.

We have had a circumstance in this country for some while where we say to somebody, ''If you close your manufacturing plant in America, move the jobs overseas, make the same product, ship it back to the United States, we will give you a tax break. Stay here and you pay income taxes. Move your jobs overseas and do your manufacturing overseas, we will give you a tax break.''

We have lost 3 million manufacturing jobs during the same time that Singapore has experienced a 46-percent increase in manufacturing jobs. That is not a coincidence. We give a tax break for people to ship their jobs overseas.

Let me give you an example of that. Here is a company that I will not identify. I will just tell you it makes pants, a pants company. This company had 280 of its employees apply for trade adjustment assistance a few months ago.

What does that mean? It means they lost their jobs because of overseas competition. The same company, whose employees now have lost their jobs here in this country, same company, describes with its filings what it does, performs most of its sewing and finishing now offshore in order to keep production costs low. It means they have moved their jobs out of this country.

Then it says in its financial reports, this same company has undistributed retained earnings of $21 million, November 1994. No tax has been paid on them because the management intends to indefinitely reinvest them in foreign countries.

What does this mean? It means they get a tax break. They would have paid $7 million in taxes had they stayed in this country and manufactured. But, no, we say to them, ''If you move your operation outside of this country, move your American jobs elsewhere, give the jobs to foreigners, shut your plant down here and move your jobs overseas, we'll give you a tax break.''

My legislation is very simple. It says, end the tax break for people who want to move their jobs overseas. End the tax break. It does not make any sense. No one, in my judgment, can honestly defend this kind of practice.

Use the money that we develop as a result of this amendment to reduce the Federal debt. That is what this amendment is about.

This amendment I offer on behalf of myself and Senators KENNEDY, REID, FEINGOLD, and BUMPERS.

I have heard a lot of debate about a lot of financial issues, but I never heard anyone in this country who can defend a part of the Tax Code that says, ''We will be willing to provide a tax break if you will only close your doors to your manufacturing plant in the U.S.A. and ship the jobs to some foreign land.''

If we cannot end this sort of thing, how can we talk to the American people about good jobs? Sixty percent of the families in this country now have less income than they did 20 years ago. Why? Because good jobs are moving overseas. There are a lot of reasons for that, but at least one of those reasons is we have an insidious, perverse incentive in our Tax Code to reward those with a tax break who would move their jobs overseas.

This amendment very simply says, ''Let's at least stop that. Let's decide jobs in this country are important. We want to retain good jobs, good-paying jobs, manufacturing jobs. Let's stop the flight of American jobs out of America.'' And one way to do that, among many others, is to decide to straighten out the Tax Code.

The fact is, President Clinton during the last campaign talked about this issue. We have had people on all sides of the political aisle talk about it. I was helpful in getting this passed through the House of Representatives in 1987, I believe it was. It subsequently was dropped. It was subsequently dropped in conference. This bill had extensive hearings. I held a hearing on this bill in the U.S. Senate. So this bill meets the criteria. We understand what this is about. This amendment makes sense. I hope that this amendment will have the support of Members of the

Senate. This makes good sense for our country.

Mr. President, with that I yield the floor.

Mr. ABRAHAM addressed the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. I yield such time as he may need to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, I rise in opposition to the amendment proposed by Senator DORGAN. In doing so, let me say at the beginning, I am not happy with companies that move abroad to a tax haven or cheap labor for the purpose of manufacturing products that are sold back to the United States. None of us can be happy with the export of American jobs.

At the same time it is important to understand that we are in the global economy and that if we are to provide well-paying, good jobs for our people, it is important that we become a vital force in the global economy that is now emerging. The United States must become competitive in this global economy.

My concern with the Dorgan amendment is that in hearings held before the Finance Committee in the past, Treasury has testified that this kind of legislation is very difficult to administer.

It has been pointed out, for example, what do you do in the case of a plant that sells both to the United States and to other companies abroad? Obviously, we want to encourage American business to compete in foreign markets, but would that company be entitled to the deferral, or how would you administer it?

Let me say that it is my intent, upon the completion of reconciliation, to look at a number of these important and complex international trade questions. We have purposely avoided in this reconciliation containing any amendments or provisions dealing with foreign trade or international matters. And as I have indicated, one of our reasons for taking this approach is that this is a matter of extreme complexity, of greatest importance to our economy and the creation of jobs in America. For that reason, we have not, as I said, included any provisions involving international trade matters in this legislation. For that reason, the Dorgan amendment is not appropriate as part of this legislation.

Again, let me say that it is my intent as chairman of the Finance Committee, which has jurisdiction over trade, that we will be holding a series of hearings dealing with the kind of problems that are raised by this amendment. But until we have a better idea of how to address this problem so that we do not, in the process of trying to correct one problem of people fleeing abroad to tax havens that sell back here, that we do not hurt those who are going abroad for a legitimate purpose, to become competitive in international markets.

So, for these reasons, I must respectfully disagree with this amendment. I yield back any remaining time.

The PRESIDING OFFICER. The Senator from North Dakota has 30 seconds remaining.

Mr. DORGAN. Mr. President, we do not need to study this; we need to stop it. Anybody who thinks that a tax break for moving American jobs overseas is good for this country probably thinks Elvis is living in a trailer park in St. Louis.

Nobody I know believes it is good tax policy to spend $2.2 billion in the next 7 years encouraging companies to shut their doors here and move their jobs overseas. What kind of nonsense is this? If we cannot support an amendment like this, we ought to turn off the lights and lock the door in this place.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from Michigan has 20 seconds remaining.

Mr. ABRAHAM. We yield back the remaining time.

The PRESIDING OFFICER. Time is yielded back.

Mr. DORGAN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. ABRAHAM. At this time, I believe the next item in order will be the amendment of the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized.

AMENDMENT NO. 2978

(Purpose: To provide States additional flexibility in providing for Medicaid beneficiaries)

Mr. GRAMM. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Texas [Mr. GRAMM] proposes an amendment numbered 2978.

On page 767, strike all after ''(2)'' on line 6 through ''(4)'' on line 16.

Mr. EXON. Mr. President, will the Senator from Texas yield for one moment? After the Senator has made his presentation, I yield 5 minutes to Senator ROCKEFELLER in opposition to the amendment.

The PRESIDING OFFICER. The Senator from Texas is recognized.

Mr. GRAMM. Mr. President, the whole logic of block granting Medicaid so that States could run the Medicaid Program with less money than if we had kept it as an entitlement is a belief that States can run the program better. In fact, both Democratic and Republican Governors have come to the national capital and said to us: ''If you will let us run Medicaid, we will provide better health care and we will do it cheaper and we will share the savings with you.''

On a bipartisan basis, they have supported our efforts to block grant Medicaid to the States, the logic being that States are capable of making decisions about running Medicaid, the logic being that the Governor and the legislature of the various States love people who receive benefits from Medicaid in their State at least as much as we do. They know those people more intimately than we do, and, obviously, those people are capable of putting them out of office directly, whereas they may not be able to vote against a Senator from another State.

In the markup in the Finance Committee before I became a member, an amendment was added that created a new entitlement. This is an entitlement imposed upon the States. The entitlement basically says that while we are giving States the ability to run Medicaid, that we are going to intervene at the Federal level and mandate that no matter how they structure their programs they have to provide three entitlements. Specifically they are told by us that there are three groups of people that they must cover.

There are groups that we would not want to cover; there are groups that the States would cover. But every Governor I know is outraged about this provision that mandates a State-mandated program for pregnant women, for children under the age of 12, and for disabled individuals.

The point is this: Not that anyone wants to deny service to pregnant women or children under 12 or disabled people, but who are we in Washington to decide how the States are going to run this program? Is it not the ultimate arrogance for Washington to believe that only we care about pregnant women, that only we care about children under 12, that only we care about the disabled, and if we let the uncaring Governors, if we let the uncaring legislators run their program in their State, they are not going to take care of their own people?

I totally and absolutely reject this. This amendment flies in the face of everything we are trying to do in Medicare, everything that my party stands for, and I think this Big Brother Washington approach has to end.

I do not believe we are going to strip this rotten amendment out of this bill, but I want to have a vote on it. The whole logic of the Medicaid reform is we are going to let the local leaders who know their people best and who care the most make the decisions. The idea that we are creating a new entitlement and we are imposing it on the States, and now in a new provision we are going to, in essence, let people go into Federal court and sue the States on these issues, I think that clearly is a retreat from what we promised the States when we gave them less money to let them run the program, and I reserve whatever seconds may remain on my time.

Mr. ROCKEFELLER. Mr. President, this amendment should absolutely be

defeated on both sides. It has this wonderful kind of a kind-hearted title to it. It talks about ''flexibility.'' The purpose is, of course, to get rid of all of this. If the Senator wants to have a vote on getting rid of Medicaid or getting rid of care for pregnant women, for children under the age of 12, or the disabled, why does he not suggest that?

We have been through this so many times before. ''Let the States decide what being disabled means.'' So then you have 50 different ideas of what a disabled person is, and it is complete chaos. I really do believe this is a country which has not given up on the idea that if a child is sick, no matter what its family's income is, that the child should get care. If a poor person is ill, or needs a test because something is desperately wrong and nobody knows what it is, America is the kind of country where you should be able to get that test without worrying about something called ''flexibility.''

I believe that health care is about giving people the opportunity to grow up to be what they really want to be. Health care is an enormous part of that. This Senator, in what appears to be a ''kind'' amendment, but what is really, in the judgment of this Senator, a very mean-spirited amendment, would just get as far away from doing anything for pregnant women and children and the disabled as the Senator possibly could. It is an amendment which should be absolutely crushed.

I yield the remainder of my time to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, the Senator from Texas says this is a new entitlement. Let us look at what the present law is. The present law mandates that, in every State of the Nation, the State must provide Medicaid coverage for every child 5 and under up to 133 percent of poverty, and for those over the age of 5, it is up to age 12 and lower, to 100 percent of poverty; and that increases it by a year each year so that by 2002, every child up to the age of 18 will be mandated coverage. So this is no new entitlement.

Second, the Senator from Texas says, ''What arrogance for us to say to these States they must cover children up through the age of 12, 100 percent of poverty and below. What right have we to levy such a mandate on the States?'' What he fails to mention is that we are sending the States $800 billion over the next 7 years—not million, but billion, with a ''b.''

When you send out money like that to the States, it seems to me you are entitled to ask for something. What do we ask for? We say they must cover poor children, 100 percent of poverty, up through the age of 12. Do we say what kinds of coverage, what the health care package is? No. It could be the most modest package. Indeed, one aspirin a year could be the health care package.

So to say this is arrogance, when we demand that the States cover this little group, come on now. I thought this was being offered with a sense of humor, but I see the Senator is serious about this.

So, Mr. President, I hope this amendment is resoundingly defeated because we have to stand for something around this place. When we send out $800 billion, we are entitled to ask for something on behalf of the States' poor.

The PRESIDING OFFICER. Who yields time?

Mr. ROCKEFELLER. Mr. President, what is the time situation?

The PRESIDING OFFICER. The Senator from West Virginia has 23 seconds. The Senator from Texas has 48 seconds.

Mr. ROCKEFELLER. I yield back my time.

Mr. GRAMM. I want to conclude the debate.

Mr. President, we are reducing funding for the existing Medicaid Program by $187 billion. The Governors agreed to this reduction. But on one basic part of the agreement, they asked that if we were going to reduce funding that we let them run their program, which they are funding in conjunction with us.

Now what is happening is the Senator from West Virginia and the Senator from Rhode Island are saying, OK, we are giving you less money, but we are going to tell you how you have to run this program. As for this talk of ''getting rid of Medicaid''—nobody is talking about getting rid of Medicaid. And ''mean spirited''—I flatly reject the notion that the Senator from West Virginia loves the children in Texas or Rhode Island more than the Governor of Texas and the Governor of Rhode Island loves the children in their own States.

The tide of history is moving against the ''Washington knows best'' policies advanced by the Senator from West Virginia and the Senator from Rhode Island, and this provision may stick today, but its days are numbered. We have to stop telling the States how to run programs in their own jurisdiction, based on our own arrogance that only we know best and only we care.

The PRESIDING OFFICER. All time has expired.

Mr. EXON. I believe, under the agreement, the Senator from Massachusetts, Senator KERRY is next. I yield to him 5 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

AMENDMENT NO. 2979

(Purpose: To increase the Federal minimum wage)

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KERRY] for himself and Mr. KENNEDY, proposes an amendment numbered 2979.

At the appropriate place in the bill insert the following new section:

''SEC. . MINIMUM WAGE.

(a) FINDINGS.—

''(1) The federal minimum wage has not been raised since 1991; and

''(2) The value of the minimum wage, after being adjusted for the bite of inflation, is at its second lowest annual level since 1955, with purchasing power 26 percent below its average level during the 1970s and 35 percent below its peak value in 1968, and unless it is increased it will in 1996 have its lowest value in over 40 years; and

''(3) The value of the minimum wage as a percentage of the average nonsupervisory wage averaged 52.2 percent during the decade of the 1960s, 45.8 percent during the decade of the 1970s, 40.4 percent during the decade of the 1980s, and currently is 37.7 percent; and

''(4) The minimum wage earned by a full-time worker over a year fails to provide sufficient income for a family of three to provide that family a standard of living even reaching the national poverty level, and, in fact, provides an income that equals only 70 percent of the federal poverty level for a family of three; and

''(5) There are 4.7 million Americans who usually work full-time but who are, nevertheless, in poverty, and 4.2 million families live in poverty despite having one or more members in the labor force for at least half the year: and

''(6) Nearly two-thirds of minimum wage workers are adults, and 60 percent are women; and

''(7) The decline in the value of the minimum wage since 1979 has contributed to Americans' growing income disparity and to the fact that 97 percent of the growth in household income has accrued to the wealthiest 20 percent of Americans during this period; and

''(8) The effects of the minimum wage are not felt only among the lowest income workers and families but also are felt in many middle-income families; and

''(9) The preponderance of evidence from economic studies of the effects of increases in federal and state minimum wages (including studies of state minimum wage increases in California and New Jersey) at the end of the 1980s and in the early 1990s suggests that the negative employment effects of such increases were slight to nonexistent; and

''(10) Legislation to raise the minimum wage to $5.15 an hour was introduced on February 14, 1995, but has not been debated by the Senate—

''Now, therefore, it is the sense of the Senate that the Senate should debate and vote on whether to raise the minimum wage before the end of the first session of the 104th Congress.''

Mr. KERRY. I yield myself 3 minutes, Mr. President. I emphasize that this is a sense of the Senate, No. 1; and, No. 2, it does not set a specific figure at this time, though many of us would like to.

It simply says that the Senate will go on record as being prepared to debate and vote on the raising of the minimum wage, which was introduced last February, that we will vote on it before the end of this first session.

Why is that important, Mr. President? Well, from 1979 until 1995, 79 percent of the increase in household income in America has gone to the top 20 percent—the 20 percent wealthiest Americans. The minimum wage which, during the 1960's, was at about 52 percent of the nonsupervisory wage, and during the 1970's was at about 45 percent, and during the 1980's was at about 40 percent, is today at 37 percent of the nonsupervisory wage.

That means, Mr. President, that for those two-thirds of the people on the

minimum wage who are adults—60 percent women—they are working at 70 percent of poverty level in this country today—70 percent of poverty level. Now, the whole theory of this country for years was based on the notion that we would value work, and if people went to work they would be able to break out of poverty. During the 1960's and 1970's, we respected that by keeping the minimum wage commensurate with the poverty level.

But ever since 1991, where we only caught up to a small percentage of the decrease of the prior 9 years, when there was no increase, we have had another 13 percent decline in the value of the purchasing power of the wage. So the wage, today, has a 26-percent purchasing power of what it had previously, and it is about to be at a 40-year low. In over 40 years, by 1996, if we do not change the minimum wage, it will never have been so low.

Mr. President, if you are going to be pro-family, if you are going to be pro-work, if you are going to be pro-community, you have to respect the notion that somebody ought to be able to take home a decent wage for an hour's work and for a week's work. The fact is, Mr. President, that under the current constraints, it is impossible for people to be able to do that, and we must go on record as really being pro-family, in an effort to try help them. I yield 1½ minutes to the senior Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I join with my colleague in urging the Senate to accept the sense-of-the-Senate resolution. Members can wonder why this is appropriate. Included in the legislation is the earned income tax credit, which is a program to try to provide some relief for the working poor. That program helps to provide assistance, particularly with heads of households who have children.

The minimum wage is for those families that do not have many children. The minimum wage provides the greatest advantage for the single heads of household.

This amendment is prochildren because 70 percent of those that work full-time have children in their families. This amendment is for women, working women, because 60 percent of all minimum wage earners are working women.

This is for full-time workers, Mr. President. Sixty-six percent of all minimum wage recipients are full-time workers.

Once again, if we care about children, if we care about working women, if we care about making work pay in America, we will support this amendment.

Mr. KERRY. I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes remaining and the Senator from Massachusetts has ½ minute.

Mr. DOMENICI. I yield back my time.

Mr. KERRY. The minimum wage worker today will earn $8,500 for full-time work. The poverty line is $12,500. Every economist, conservatives and liberals alike—at Harvard, and Friedman, say you have to have a combination of the earned income tax credit and the minimum wage to truly permit people to break out of poverty.

We can do this, as every study shows, without losing jobs—in fact, as New Jersey showed, creating further employment.

I hope my colleagues will go on record as being willing simply to debate and vote on this issue.

Mr. KENNEDY. Will the Senator from New Mexico in his typical gracious and wonderful way be willing to give me 15 seconds?

Mr. DOMENICI. As the evening passes, I am getting less and less gracious.

I ask Senator KERRY of Massachusetts, did he mention a great economist from the University of Chicago in his wrap-up?

Mr. KERRY. I did not mean to. I meant to mention the one from Harvard.

Mr. DOMENICI. It was not Friedman from Chicago?

Mr. KERRY. No.

Mr. DOMENICI. Because he does not think this works at all. He thinks this makes for more people—I do not have any time left and we will get on with a vote.

Mr. KERRY. There are 101 economists and 3 Nobel laureates, and 7 past presidents of the Economic Association who endorse this increase.

I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

AMENDMENT NO. 2980

(Purpose: To make technical amendments to title V)

Mr. DOMENICI. Mr. President I have an amendment on behalf of the Energy Committee, for Senator MURKOWSKI, the chairman, and Senator JOHNSTON, the ranking member. It is a technical amendment that will correct the reconciliation statute that the Energy Committee passed. I believe it is acceptable.

I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from New Mexico [Mr. DOMENICI] for Mr. MURKOWSKI, for himself, and Mr. JOHNSTON proposes an amendment numbered 2980.

Mr. DOMENICI. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(1) On page 304, line 20, delete ''follows:'' and insert in lieu thereof ''follows (except that all amounts in excess of $20,000,000 in fiscal year 2003 and all amounts in fiscal year 2004 shall not be available for obligation until fiscal year 2006):''.

(2) On page 361, line 7, delete ''thereafter,'' and insert in lieu thereof ''thereafter, except for fiscal years 2003 and 2004,''.

Mr. DOMENICI. Am I correct, I say to the whip, is this acceptable?

Mr. FORD. I do not know. I have not seen it. Apparently, the Budget Committee ranking member is willing to accept it.

Mr. EXON. We have no objection. I agree to accept the amendment.

Mr. DOMENICI. I yield back my time.

Mr. EXON. I yield back.

The PRESIDING OFFICER. All time is yielded back.

Mr. DOMENICI. Is it appropriate under the unanimous consent that we adopt this amendment, or must we hold it?

The PRESIDING OFFICER. If there is a unanimous consent agreement to adopt the amendment, that may be done.

Mr. FORD. Mr. President, we should keep it going. It is the ninth amendment.

Mr. DOMENICI. We will put it in the sequence in this particular position.

Mr. EXON. According to my list we have Senator KENNEDY next.

Mr. DOMENICI. We have one amendment remaining.

I want to state to the distinguished ranking member, Senator EXON, the majority leader requests that we do some of your amendments, giving us additional time. They are not yet finished in terms of drafting. It must be one with at least 5 minutes on a side.

Could you proceed to the Kennedy-Wellstone-Pryor and reserve our one remaining?

Mr. EXON. That sounds reasonable.

Mr. DOMENICI. If we come in perhaps after 30 minutes and are ready, we could intervene.

Mr. EXON. I see nothing wrong with that. We can move on to the Kennedy amendment, the next amendment on my list. I yield 5 minutes to Senator KENNEDY.

AMENDMENT NO. 2981

(Purpose: To strike the provision allowing the transfer of excess pension assets)

Mr. KENNEDY. I send to the desk an amendment on behalf of myself and the Senator from Kansas, Senator KASSEBAUM, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Massachusetts [Mr. KENNEDY], for himself and Mrs. KASSEBAUM, proposes an amendment numbered 2981.

Strike section 12807.

Mr. KENNEDY. Mr. President, I yield myself 2½ minutes.

Mr. President, this proposal allows corporations to remove money from pension plans and use it for nonretirement purposes. That particular proposal is included in the Republican measure that is now before the U.S. Senate.

The Republican budget, therefore, hits older Americans not once but twice. The Medicare cuts are an outrage and so is the raid on workers' pensions. No one can claim they are saving

the pension system. The pension system is not broken. We have no right to give away $20 billion of pension funds that do not belong to us and do not belong to the Federal Government.

The $20 billion that the Republican budget gives away belongs to workers and retirees who have given up wages to have that money contributed to their pensions. The bill is an invitation to corporate raiders and greedy executives to loot the pension plans of their workers and retirees.

What looks like overfunding today can be underfunding tomorrow. The Senator from Kansas, Senator KASSEBAUM, put it well several years ago when she said, ''If stocks and bonds drop in value, as they will at some point, these surpluses could evaporate like the morning mist.''

The history of the Pension Benefit Guaranty Corporation over the past 20 years makes it clear that today's well-funded company can become tomorrow's massive pension bankruptcy.

Congress should be worried about plan underfunding, not how to give away surplus assets that have been built up for retirees. The danger of underfunded plans is what Congress ought to be addressing.

We passed the Pension Protection Act last year to strengthen pension funding. It makes no sense to turn around a year later and weaken pension funds in a way that puts both retirees and taxpayers at risk.

This issue presents a stark choice about who we represent here in the Senate. Which side are we on? Are we on the side of the workers and retirees who struggle to find some economic security in their old age? Or on the side of the wheeler dealers, corporate raiders, and the super rich? I want the Senators to say no to this raid on retirees and defeat this unconscionable attack on the pension funds.

Mrs. KASSEBAUM. Mr. President, I want to take a few moments this afternoon to discuss a provision in the reconciliation package that has attracted relatively little attention to this point.

As many of my colleagues know, the House reconciliation bill includes a measure designed to generate approximately $10 billion in tax revenue by doing away with penalties Congress imposed in 1990 on pension fund withdrawals. The House proposal generally allows companies to take money from pension plans that are more than 125 percent funded and use those funds for any purpose, without informing their workers.

In response to a wave of corporate takeovers and pension raids in the 1980's, Congress in 1990 imposed an 50-percent excise tax on pension fund reversions, except in limited circumstances. The idea was to make it costly for companies to take assets from their pension plans. And, in fact, the raids on assets ceased almost entirely. Before this change, however, about $20 billion was siphoned from pension funds in just a few years, many pension plans were terminated, and thousands of workers saw their pensions replaced by risky annuities that provided lower benefits.

The reconciliation package before us includes a pension reversion measure that is similar to the House proposal. Under the Senate bill, excess pension assets could be wihdrawn—with little or no penalty—to fund active and retiree health benefits, underfunded pension plans, disability benefits, child care, and educational assistance plans.

Mr. President, this represents a significant change in pension policy.

I understand that there are approximately 22,000 pension plans covering 11 million workers and 2 million retirees that have assets in excess of 125 percent of current liability, and that the Joint Committee on Taxation estimates that the pension reversion provisions contained in both the House and Senate bills could result in the removal of tens of billions of dollars in assets from these plans.

Therefore, while the Senate proposal clearly is more limited than the House proposal, I nevertheless must oppose it. I understand there will be an amendment to strike this provision that will be offered by the ranking member of the Senate Labor and Human Resources Committee, Senator KENNEDY. I want to make clear to my colleagues that I intend to support that amendment.

The Senate Committee on Labor and Human Resources, which I chair, shares jurisdiction over the Employee Retirement Income Security Act [ERISA] with the Committee on Finance. In the past, the Labor Committee has taken an active role in pension security and pension reversion issues. In fact, the provision reported by the Finance Committee contains modification to title I of ERISA, which clearly fall within the Labor Committee's jurisdiction.

Yet the Labor Committee did not consider the pension provisions contained in the legislation before us. And neither the Finance Committee nor the Labor Committee has held hearings to consider modifications of this nature in the pension reversion area.

Mr. President, as I said, the Senate proposal clearly is more limited than the House proposal. I also believe that there may be valid reasons to revisit the pension reversion penalties that were imposed in 1990.

However, given the actions that led to the imposition of the excise tax, I strongly believe that any modifications in this area should be given full consideration by the committees of jurisdiction and that we should weigh heavily the genuine possibility of adverse consequences to plan participants, the Federal pension insurance program, and the national savings rate that may result from a change in pension policy of this magnitude.

Therefore, I intend to support the KENNEDY amendment and I urge my colleagues to do the same.

The PRESIDING OFFICER. The Senator has 3 minutes remaining.

Mr. KENNEDY. I yield 2 minutes to the Senator from Florida.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. In an earlier debate I mentioned this is legislation filled with risk. We have now identified another one of those areas of risk. Have we forgotten so soon? It was just a matter of a few years ago when we were having pension plans across America fail because they were underfunded.

In many cases, they failed because they had been used by corporate raiders as a means of financing mergers and acquisitions which then destroyed the jobs of the very people for whom the pension fund was intended to protect.

I cannot believe in 1995 we are about to not only make it easier but, I am going to suggest, positively encourage this type of behavior. Why would we encourage this behavior? If a chief financial officer of a corporation failed to take advantage of this program, he or she ought to be fired for corporate malfeasance.

Here is what we are about to do. We allow a corporation in profitable years to overfund their pension, to put in more than is required in order to meet that year's annual pension amount. Then, when the corporation in a business cycle has a not-so-good year, we are allowing them to reach in and withdraw those funds.

What is the significance to the U.S. Treasury? They take a full deduction when they put the money in the pension. They pay no taxes when they take it out, because they had planned to take it out in a year in which they owe no taxes.

This is an outrage, Mr. President. It is a disgrace that it is part of this legislation. It has no part in a bill which is intended to balance the budget, to balance the budget of the Federal Government off the security and hard work of working men and women who depend on these funds for their well-being, and to turn it over to corporate raiders.

I urge adoption of this amendment.

Mr. MOYNIHAN. Mr. President, the Republicans' revenue recommendations contain a slew of tax breaks for businesses that do not belong in a deficit reduction bill. One of the most egregious of these special tax breaks is a provision on corporate pension transfers that would allow employers to take billions of dollars in excess assets from pension plans to the extent of their costs for other employee benefits—such as health care for active employees—without paying the current-law excise tax. The proposal opens the door for up to $47 billion to be removed from the pension system, thereby endangering workers' retirement security and increasing the risk to the Pension

Benefit Guaranty Corporation [PBGC] and U.S. taxpayers.

The Republicans have included this provision among a small group of so-called corporate welfare reforms that raise revenue through restrictions on tax rules under which the affected companies currently operate. The pension transfer proposal, however, is hardly a reform; rather, it is a conspicuous corporate welfare program of its own. The proposal merely frees workers' pension funds to be used for general corporate purposes, such as executive bonuses or extra shareholder dividends.

Earlier this year, the Finance Committee devoted several weeks to hearings on how to increase our Nation's savings rate. We found that the savings rate is terribly low, and that the high rate of consumption was hurting the economy. Yet, the Finance Committee has now recommended to the Senate a provision that both weakens the retirement security of employees and removes assets from a key source of savings—employees' pension funds.

Despite Republican assertions to the contrary, the proposal poses a serious threat to the security of the affected pension plans. First, the pension transfer proposal generally would measure excess assets using a standard that is easily manipulated and thus, I believe, inappropriate for this purpose. Under the provision, a pension plan would be considered to have excess assets, eligible to be withdrawn, to the extent its assets exceed 125 percent of the plan's current liability. Under this standard, the employer is free to use a range of interest rate and mortality assumptions, and need not account for the effect of early retirement or contingent events such as plant shutdowns. Thus, an employer can choose favorable actuarial assumptions to minimize the plan's liabilities and maximize the excess assets it is entitled to withdraw from the retirement plan under the proposal. Consequently, the cushion provided by the proposal cannot ensure that adequate funds remain to fulfill the amount of the employees' accrued benefits.

The laxity of this standard is demonstrated in PBGC's analysis of several large plans. PBGC's analysis of 10 large plans revealed that a transfer in accordance with the provision in the bill could leave those plans with less than 90 percent of the funds needed to pay benefits on termination. PBGC would be expected to pay the difference, up to the guaranteed level.

Moreover, the current liability standard is highly susceptible to shifts in the stock or bond market. The stock market is currently at an all-time high; any subsequent drop in the market could have a significant adverse effect on a plan's asset values, thereby causing a plan that currently has excess assets under the proposal to become underfunded. Thus, a more substantial cushion is necessary than that provided by the proposal to protect against future market shifts.

The Republicans note that the standard used in this proposal is the same standard enacted for pension transfers for retiree health benefits in the 1994 Uruguay Round Agreements Act [GATT]. However, the two provisions are vastly different in scope. The potential transfers allowable under this proposal would dwarf the amount of transfers allowable for use in meeting retiree health costs under GATT. Care was also taken in GATT—unlike in the Republican proposal—to create a protective firewall that is, a maintenance of effort requirement. Thus, the proposal will increase considerably the risk of loss to the PBGC.

Finally, by exempting employers from the current law excise tax, the proposal encourages employers to use pension plans as tax-sheltered corporate piggy banks. Under current law, if an employer terminates its plan and takes a reversion, an excise tax of 50 percent of the reversion applies. One purpose of the excise tax is to recapture the tax benefit the employer enjoys from earnings that have grown tax-free on the contributions to the pension plan. In 1990, GAO found that an excise tax of between 17 percent and 59 percent was necessary—depending on the plan population and the underlying investments—for the Federal Government to recapture the tax benefit to employers when assets in a pension plan are withdrawn by the employer. In addition, the proposal removes the deterrent effect of the excise tax on plan terminations: An employer can first take the excess assets and subsequently terminate the plan, thus avoiding the excise tax because there would be no additional assets left to revert to the employer as a result of the termination.

Yet, employers under the committee's proposal are exempted from the excise tax, and are merely required to include the amount taken into income. Any company with a net operating loss carryover can offset the income from the pension transfer with its accumulated net operating losses. Thus, the tax paid by employers on a reversion under this proposal could be zero. Moreover, under this proposal, an employer can easily terminate its plan after draining it of excess assets, thus avoiding the termination excise tax altogether.

Senate Republicans argue that the use of the pension transfers under the proposal is restricted to meeting the costs of other qualified employee benefits—primarily health benefits for active employees. Make no mistake: This requirement is merely cosmetic. The proposal allows employees' pensions to be siphoned off for general corporate use. Nearly all employers who would take advantage of this proposal already provide health benefits to their employees. Thus, using these excess assets for existing health benefits merely frees up funds they would have spent anyway, to be used in turn for executive bonuses, extra shareholder dividends, or the like.

In light of all these defects, I believe the proposal is fundamentally flawed as a matter of retirement and tax policy, and strongly urge my colleagues to support my amendment.

The PRESIDING OFFICER. Who yields time? The Senator from Massachusetts has ½ minute remaining.

The Senator from New Mexico.

Mr. DOMENICI. I yield our 5 minutes to the distinguished chairman of the Finance Committee, Mr. ROTH.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. ROTH. Mr. President, excess pension assets do not belong to employees. The reason for this is that under a defined benefit pension plan, the employer promises to pay an employee a fixed monthly retirement benefit. Under current law, after these benefits are fully funded the employer can take out excess assets upon plan termination.

Excess pension asset transfers will not reduce or jeopardize workers' pensions. Only the most overfunded pension plans will be allowed to transfer excess pension assets. According to a former chief actuary of the PBGC, only 1 percent of plans covered by the PBGC terminate in a given year without sufficient assets. And after the passage of the stringent funding rules in last year's GATT legislation, it is reasonable to expect the incidence of plan failures will decrease in the future.

The proposal also contained several provisions designed to guard against plan underfunding. First, employers are required to keep a substantial cushion of excess pension assets in the plan. And I point out this is the same measure that President Clinton proposed for retiree health transfers in the Retirement Protection Act of 1994.

The other side has attacked this proposal. But is it not interesting that their own President proposed the same measure that is contained in the legislation before us tonight.

The minimum cushion is 125 percent of plan liabilities, and in many cases the cushion is as high as 150 percent of plan liability. In fact, a national actuary firm prepared a study that concluded that more than 70 percent of the overfunded plans will be subject to a cushion greater than 125 percent of plan liability. At these funding levels, the pension plan will always be at the full funding limit.

In fact, plans at the full funding limit are not permitted to make new contributions to the pension plan. Plan trustees are required to use a plan asset valuation method that results in the largest asset cushion. And, to guard against fluctuations in interest rates and stock market values, the proposal requires plan trustees to use January 1, 1995, or the most recent valuation date before the transfer, whichever results in the largest asset cushion.

Employers must use the excess assets to fund ERISA-protected employee

benefit plans that cover a broad group of employees. That is a most important point that must and should be understood. Employers can only take out the excess assets to fund other ERISA-protected employee benefits that cover a broad group of employees. That is just common sense. And the plans that can be funded with excess assets are limited to—and let me spell them out—other retirement plans of the employer, including underfunded retirement plans; active and retiree health plans; child care; disability; and educational assistance.

This is a good plan, and, for that reason, I must oppose amendment of Senator KENNEDY.

Mr. KENNEDY addressed the Chair.

The PRESIDING OFFICER. Senator KENNEDY.

Mr. KENNEDY. I yield the final 30 seconds to the Senator from Vermont.

Mr. President, I ask unanimous consent that Senators JEFFORDS, MOYNIHAN, BINGAMAN, EXON, WELLSTONE, SIMON, and GRAHAM be added as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. JEFFORDS. Mr. President, I rise in vigorous support of removing these provisions in this bill because we are dealing here with a very serious problem of pension plans. This will result in tens of billions of dollars being withdrawn from employee pension plans at a time when we are in absolute need of improving our pension capacity. It is done without any hearings. It is a matter that is within the jurisdiction of our committee. We would want desperately to make sure that what things are done are done correctly and appropriately.

I vigorously oppose the provisions that are in the bill and support the strike amendment.

The PRESIDING OFFICER. All time has expired.

Mr. KENNEDY. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, the next Senator on the list is the distinguished Senator from Minnesota, Senator WELLSTONE. I yield him 5 minutes.

The PRESIDING OFFICER. The Senator from Minnesota is recognized for 5 minutes.

AMENDMENT NO. 2982

(Purpose: To scale back corporate welfare in the tax code by eliminating the deduction for intangible drilling and development costs for oil, gas, and geo-thermal wells, by eliminating the corporate minimum tax provisions, by eliminating the foreign earned income exclusion, and by eliminating the section 936 possession tax credit, and use the savings for deficit reduction)

Mr. WELLSTONE. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Minnesota [Mr. WELLSTONE] proposes an amendment numbered 2982.

Mr. WELLSTONE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of chapter 1 of subtitle I of title XII, insert:

SEC. . REPEAL OF EXPENSING OF INTANGIBLE DRILLING COSTS.

(a) FINDINGS.—The Senate finds that—

(1) this legislation, as reported by the Senate Committee on the Budget on October 23, 1995, significantly reduces funding for medicare and medicaid, student loans, food stamps, and other federal efforts critical to working families across the country, in order to pay for tax breaks to benefit primarily wealthy corporations and others;

(2) this legislation will significantly increase the tax burden on an estimated 17 million working families, by modifying the earned income tax credit, which has enjoyed longstanding bipartisan support;

(3) the Congressional Joint Tax Committee has estimated that tax expenditures cost the United States Treasury over $420 billion annually, and they estimate that amount will grow by $60 billion to over $480 billion annually by 1999;

(4) Congress should reduce the federal budget deficit in a way that is responsible, and that requires shared sacrifice by eliminating many of the special interest tax breaks and loopholes that have been embedded in the tax code for decades, making the tax system fairer, flatter and simpler;

(5) eliminating special interest tax breaks would enable Congress to do real tax reform, making the system fairer and more simple by flattening the current tax rate structure and eventually providing real tax relief for working families;

(6) the savings generated by eliminating these special tax breaks immediately can be used to reduce the deficit.

(b) ELIMINATION OF DEDUCTION FOR CERTAIN INTANGIBLE DRILLING AND DEVELOPMENT COSTS.—Section 263 (relating to capital expenditures) is amended—

(1) by adding at the end of subsection (c) the following new sentence: ''This subsection shall not apply to costs paid or incurred in taxable years beginning after December 31, 1995.'', and

(2) by striking subsection (i).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to costs paid or incurred in taxable years beginning after December 31, 1995.

(d) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

On page 1550, beginning with line 13, strike chapter 3 of subtitle B of title XII, and insert:

SEC. 12161. REVENUE LOCK BOX.

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from striking section 12161 and section 12162 as contained in the Balanced Budget Reconciliation Act of 1995 as reported by the Senate Committee on the Budget on October 23, 1995, in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

At the end of chapter 8 of subtitle I of title XII, insert the following:

SEC. . ELIMINATION OF EXCLUSION FOR FOREIGN EARNED INCOME.

(a) IN GENERAL.—Subsection (a) of section 911 (relating to citizens or residents of the United States living abroad) is amended by striking ''subtitle,'' and all that follows and inserting ''subtitle—

''(1) for any taxable year beginning before January 1, 1996, the foreign earned income of such individual, and

''(2) for any taxable year, the housing cost amount of such individual.''

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 1996.

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1997 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Strike section 12805 and insert:

SEC. 12805. TERMINATION OF PUERTO RICO AND POSSESSION TAX CREDIT.

(a) REPEAL.—Section 936 is amended by adding at the end the following new subsection:

''(j) TERMINATION.—This section shall not apply to any taxable year beginning after December 31, 1995.''

(c) REVENUE LOCK BOX.—

(1) AMOUNT OF DEFICIT REDUCTION.—Effective in 1996 and not later than November 15 of each year, the Director of OMB shall estimate the amount of revenues resulting from the enactment of this section in the fiscal year beginning in the year of the estimate and notify the President and Congress of the amount.

(2) REDUCTION OF DEFICIT.—On November 20 of each year, the President shall direct the Secretary of the Treasury to pay an amount equal to the amount determined pursuant to paragraph (1) to retire debt obligations of the United States.

Mr. WELLSTONE. Mr. President, this amendment scales back corporate welfare in the Tax Code by eliminating several loopholes, including the deduction for intangible drilling and development costs for oil, gas, and geothermal wells, the corporate minimum tax provisions, the foreign earned income exclusion, and section 936, the possession tax credit. It locks all of the savings away to be used for deficit reduction—and only for this purpose.

The savings from these amendments, all to go for deficit reduction, range between $60 and $70 billion, depending on

whose estimates you use. I do not have time to go through each of these corporate welfare provisions, but let me simply say that over and over and over again this week we have been talking about basic fairness, and that closing these loopholes is an attempt to make the Tax Code fairer.

I will tell you right now, as people in the country look at this deficit reduction bill, they know that it is based upon the path of least political resistance. They know that it is disproportionately working families and middle-income people and low- and moderate-income people who have been targeted.

Mr. President, I do not know one citizen in Minnesota, or in any of our States, if the truth be told, who would not agree with the proposition that we ought to close some of these loopholes. And by closing some of these loopholes, with these benefits going primarily to large companies that do not need the benefits, that have not been asked to tighten their belts, instead of allowing these to continue we would have more money to slash the deficit further, to invest in law enforcement, in education, in children, in health care, in transportation, in child care, in child nutrition programs.

It is a matter of priorities. Donald Barlett and James Steele won a Pulitzer for their book here, ''America: What Went Wrong?'' They are two really fine investigative reporters for the Philadelphia Inquirer. And in the section of the book ''America: Who really Pays the Taxes?'' they have an interesting paragraph:

> For over 30 years, Members of Congress and Presidents, Democrats and Republicans alike, have enacted one tax after another to create two separate and distinct systems, one for the rich and powerful called the privileged person's tax law, and another for everyone else called the common person's tax law.

Mr. President, this amendment will move us back toward a Tax Code that treats people fairly. It is time for some basic fairness, and that is the meaning of this amendment.

I reserve the rest of my time.

The PRESIDING OFFICER. The Senator has 2½ minutes remaining.

Who yields time? The Senator from New Mexico.

Mr. DOMENICI. Mr. President, it sounds good to talk about getting rid of depreciation and intangible drilling costs for the oil and gas industry in the United States until you understand that most of these go to independent producers, those who really find the diminishing supply of both oil and gas in America. These are not exceptional depreciation allowances. They are not some gift. They are absolutely necessary unless we want to make a decision that America's own oil and gas production should disappear and we should not have any.

We are importing oil now, about half of our needs, and that is growing. And speak of losing jobs and losing growth. This industry that we would now try to take away the last, the last thing they have that might give them a chance to survive, succeed, employ people and produce oil, has already lost 250,000 jobs since the oil slump began.

We fought Desert Storm, and make no bones about it, because oil is precious to the United States, because it is a commodity without which our American economy for now and the foreseeable future cannot work.

Now, why would we come to the floor in a balanced budget activity and decide that we are going to take away what will keep the little industry we have left for producing oil and gas and the men and women who work in it, produce it and make a living? To me, it seems absolutely absurd. It seems kind of like backward economics to go out there and pluck this industry, perhaps because there is none in some States, or perhaps people think when oil and gas is mentioned it is Exxon or that it is Mobil—nothing wrong with them, but obviously in the United States, the principal people working and producing oil and gas are independent producers. They are finding most of the new oil. They are operating most of the rigs out there now. And I might just say, at this particular time we have the lowest rig count since we started keeping records. That means that even with these allowances we are hardly keeping pace with producing any new oil in America's oil patch.

Now, Mr. President, Senator NICKLES wants to speak about a minute or so on this, and if the Senator would permit me, I will reserve the remainder of my time and let the Senator complete his with the hope that Senator NICKLES will arrive.

Mr. WELLSTONE. Mr. President, I will just take a minute and then wait to respond later, if I could.

The PRESIDING OFFICER. The Senator from Minnesota has 2½ minutes.

Mr. WELLSTONE. First of all, Mr. President, we have on the part of my colleagues on the other side of the aisle a proposal for exporting more oil now from the North Alaska slopes, at the very time we are saying we are worried about our own supply. That is already contained in this bill.

Second, this is typical of what happens when we try to scale back corporate welfare and close tax loopholes. Every time you take on a powerful interest like this as opposed to regular people, opponents claim that the sky is going to fall in. It is not true that this change would spell the demise of the oil and gas industry. Just like other industries and other businesses, they should be made to capitalize their costs, to write off their costs over a longer period of time—the life of the asset. This is a special exemption, just for one industry. That is what is going on here. And this is why people do not trust this process. Every time it is a powerful interest whose benefits are under fire, we hear all sorts of reasons why they cannot be asked to tighten their belts. But, boy, when it comes to Medicare, when it comes to education, when it comes to children, belt-tightening is all the rage. This amendment basically says, let us have a standard when it comes to some deficit reduction. Let us have standard of fairness.

I will reserve the rest of my time.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I regret to tell my friend, Senator WELLSTONE, that average people use oil. Without oil for America, average people suffer. Medicare suffers. Hospitals close.

Does anyone recall when we were in the small embargo situation with Iran and the cars were piled up at our gasoline stations? They were even shooting each other in the excitement of trying to get up there and see if they could get some gasoline in their cars.

All the gasoline comes from oil. Why should we stop producing oil in the United States, take away the tax deductions that are legitimate that they have? They are just as legitimate as everybody else's deduction. They are not a gratuity or a gift. So it might be nice to say, let us take out after this industry, but it is amazing when this industry does not produce the very people who Senator WELLSTONE is so worried about are the ones who suffer because everybody suffers. Our standard of living suffers. Inflation goes rampant. And I do not want to take that chance.

I reserve the remainder of my time.

Mr. WELLSTONE. Mr. President, how much time do I have remaining?

The PRESIDING OFFICER (Mr. STEVENS). The Senator has 1 minute, 40 seconds.

Mr. WELLSTONE. I will take 30 seconds on this.

I remind my colleague that altogether this particular exemption is only about $2.5 billion over the next 5 years. This is a whole package, worth tens of billions, that says, let us close these tax loopholes. People in the country want us to.

Second, Mr. President, in all due respect to my good friend from New Mexico, this is exactly the line we so often hear: the sky is falling in. No one is talking about eliminating the oil industry. Nobody is talking about not having oil business. We are just saying, how about closing these tax loopholes so that when companies do not pay and——

The PRESIDING OFFICER. The Senator's 30 seconds have expired.

Mr. WELLSTONE. I thought the Chair said I had 1 minute, 45 seconds.

The PRESIDING OFFICER. I am sorry. The Chair thought the Senator meant to notify him when 30 seconds expired.

Mr. WELLSTONE. I am sorry. Let me finish very briefly and reserve the remainder of my time.

Other people pay more.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. WELLSTONE. How much time is on the other side, Mr. President?

The PRESIDING OFFICER. One minute.

Mr. DOMENICI. I yield 1 minute to Senator NICKLES.

The PRESIDING OFFICER. Senator NICKLES has 1 minute and 5 seconds.

Mr. NICKLES. Mr. President, I urge my colleagues to oppose this amendment. I just heard about it. I understand he says, well, we want to take away this advantage, IDC. Really, what my colleague is saying is, you should not be able to deduct ordinary out-of-pocket, nonrecoverable business expenses. That is ludicrous. It should not happen. He happens to be wrong on that issue.

I think I heard my colleague say that he wanted to eliminate the 936 benefit that goes towards Puerto Rico. We do that in this bill. We do it in the bill over 7 years and over 6 years. There are two different ways you count that benefit. We phase it out over 6 or 7 years. I think it is a responsible provision. I guess he wants to do it immediately, but you have a lot of firms that have made investments. I think that would be very inappropriate.

My colleague may call it corporate welfare, but again I think this committee has taken some very responsible action in allowing people to deduct their out-of-pocket, nonrecoverable business expenses as should be allowed and phasing out the tax benefit that was directed towards Puerto Rico.

So I would urge the Senate to oppose my colleague's amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator has 1 minute.

Mr. WELLSTONE. Mr. President, facts are stubborn things. It is a fact that IDC's are a special exemption. With my amendment, you could still in this industry capitalize your costs, depreciate them over a longer period of time, just like with most other industries.

This is just a special exemption that most other businesses do not get. We have been talking about the tax rate in Puerto Rico. In 1993, I wanted to phase it out, even though I was sympathetic to concerns that doing so suddenly would be unfair. That didn't happen. And now, we have 7 to 10 more years provided for in this bill. My amendment says that by 1997 we have to eliminate it.

My amendment says, colleagues, that we have to make tough choices. Barlett and Steele have it right. What do you have? One person's tax code is called the ''privileged person's tax law,'' and for everyone else, call it the ''common person's tax law.'' It is time we understand: regular people pay more because these loopholes allow often very profitable companies—some of the largest and most powerful companies in the country—are paying less.

This is revenue that the Government does not collect. We ought to have deficit reduction here. This is between $60 billion to $70 billion of deficit reduction based on a standard of fairness. We would have more for education, more for children, more for health care, more for law enforcement.

This is a perfect example of whether or not we will be willing to vote for people we represent or whether or not we are too beholden to powerful special interests. That is what this amendment speaks to.

I ask unanimous consent that copies of my prepared statements on each of the four loopholes, elaborating on my policy rationale for closing them, be included in the RECORD before the vote.

Mr. EXON. Mr. President, is all time expired?

The PRESIDING OFFICER. All time is expired.

Mr. EXON. Mr. President, the good news is that according to my record—and I believe my colleague will agree—we have three amendments left in this tier 2 category: Pryor, Conrad and Roth, in that order.

Is that the Senator's understanding?

Mr. DOMENICI. Finance Committee—Roth. We have been calling it ''Finance Committee.'' Yes.

Mr. EXON. Pryor, Conrad, Roth—Finance Committee.

Mr. WELLSTONE. Would the Senator from Nebraska yield for a moment, a split second?

Mr. EXON. Yes.

Mr. WELLSTONE. I ask unanimous consent that Senator FEINGOLD be included as an original cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. EXON. I now recognize Senator PRYOR from Arkansas for his amendment and yield him the 5 minutes.

Mr. DOMENICI addressed the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Could I yield myself 5 minutes and have an exchange with the Senator, a conversation that our leader asked me to have, if the Senator would?

Mr. EXON. Certainly.

Mr. DOMENICI. We have 17 amendments that are completed.

The PRESIDING OFFICER. The Senator from New Mexico has no time.

Mr. DOMENICI. Please?

The PRESIDING OFFICER. I am informed the Senator from New Mexico has no time.

Mr. DOMENICI. Where is the time, all on the Democrat side?

Could the Senator yield me 4 minutes to engage in this conversation?

Mr. EXON. I will.

Mr. DOMENICI. I say to the Senator, Senator DOLE has suggested, since we have 17 amendments to vote on now, we would like to vote on them tonight—that will put us well beyond 12 o'clock, and we will vote on them all—that we put over two amendments until morning, and that be the Pryor amendment and what the Senator has heretofore called the Roth amendment. And we would not change anything about those amendments in terms of votes—5 minutes of debate, and everything else—but they would be two that we would not lay down tonight.

We would go ahead and put CONRAD's in, if you would like, and that would leave two amendments for tomorrow. And then we could use this evening to see what the remaining lists of amendments are. We have 2 hours or 3 hours that we are going to be down here. The Senator's side and ours could put together the list which would follow after the end of our second tier, which is the goal. The Roth——

Mr. EXON. I would have to check on it. Could we put in a brief quorum call and see if—this surprises me. I do not know whether there is objection to it or not.

I know Senator PRYOR is ready to go. Could we put in a quorum call for a few minutes?

Mr. FORD. Would the Senator yield for one moment? We have another amendment.

Mr. DOMENICI. Yes.

Mr. FORD. You talked about the Pryor amendment. We have the Simon-Conrad amendment that is also mentioned. The Senator says take that one tonight and have Pryor tomorrow?

Mr. DOMENICI. I called it Conrad. I am sorry.

Mr. FORD. I do not believe Senator PRYOR is going to be willing to move his away from tonight.

Mr. EXON. Wait a minute. How many amendments? We have Pryor, Conrad, Roth. Is it Conrad-Simon? All right. We have three amendments; right.

Mr. DOMENICI. We call it Conrad; he calls it Simon.

Mr. EXON. All right.

Mr. NICKLES. One wears a bow tie.

Mr. EXON. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that further proceedings under the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I understand they have two amendments on their side. We will hold our Roth amendment until morning. So we will proceed with theirs at this point.

Mr. EXON. Mr. President, I thank the chairman of the committee.

I now recognize Senator PRYOR, as I did previously, and have awarded him the 5 minutes on our side.

The PRESIDING OFFICER. The Senator from Arkansas is recognized for 5 minutes.

Mr. PRYOR. Thank you, Mr. President. I thank the Chair for recognizing me.

AMENDMENT NO. 2983

(Purpose: To provide for the continuation of requirements for nursing facilities in the Medicaid Program)

Mr. PRYOR. Mr. President, in this 2,000-page piece of legislation, the

budget reconciliation bill of 1995, we would think that just about everything under the sun would have been thought of and included in this to consume some 2,000 pages.

But what we did not include in this reconciliation bill is something very, very vital, Mr. President, because those are the nursing home standards that we have had enacted since 1987, and if we fail to reenact those same nursing home standards on the Federal level, we will be failing to protect a very, very fragile and vulnerable asset, which is the elderly population of this country, some 2 million now residing in these American nursing homes.

Mr. President, I send the amendment to the desk. I send it to the desk on behalf of myself and Senator COHEN of Maine.

The PRESIDING OFFICER. The clerk will report.

Mr. PRYOR. I have several cosponsors. I will not read all of those at this time. It will consume too much time.

The bill clerk read as follows:

The Senator from Arkansas [Mr. PRYOR], for himself, Mr. COHEN, Mrs. BOXER, Mr. BUMPERS, Mr. CONRAD, Mr. DODD, Mr. FEINGOLD, Mr. HARKIN, Mr. INOUYE, Mr. KENNEDY, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Ms. MIKULSKI, Mrs. MURRAY, Mr. ROCKEFELLER, Mr. SIMON, Mr. WELLSTONE, and Mr. KOHL proposes an amendment numbered 2983.

Mr. PRYOR. I ask unanimous consent that further reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

Beginning on page 889, line 21, strike all through page 897, line 19, and insert the following:

''SEC. 2137. QUALITY ASSURANCE STANDARDS FOR NURSING FACILITIES.

''The provisions of section 1919, as in effect on the day before the date of the enactment of this title, shall apply to nursing facilities which furnish services under the State plan.

Mr. PRYOR. Mr. President, since we enacted OBRA 1987, we have seen a dramatic change in the care of the nursing home patients in our country. For example, we have seen a 38 percent decline in the number of physical restraints. Since the enactment of the OBRA 1987 nursing home regulations, which was, I might say, a bipartisan effort—the late John Heinz, former Senator Durenberger, former Senator George Mitchell, former Senator Jack Danforth from Missouri—we have seen a dramatic advance in all of the things that make the quality of care in nursing homes better; for example, in resident outcomes, a 50 percent increase in the number of dehydration cases that we have solved, and no longer do we find many of these patients dehydrated.

We see also just a characteristic of the nursing home population, Mr. President. And how are we going to afford to look them in the eye and say that we failed to adopt any Federal standards in the budget reconciliation bill and we are going to say to the 77 percent of those who need help dressing, to the 63 percent who need help in toileting, the 91 percent who need help bathing, ''We are sorry, you can just make it on your own. We are doing away with all Federal standards. We are going to leave it to the States''?

But, Mr. President, the reason we have Federal standards today as a result of OBRA 87 is because the States were not meeting their obligation and their challenge.

Mr. President, I know that there are two or three of my colleagues who want to speak. I know that Senator ROCKEFELLER wants 30 seconds. I yield 30 seconds to Senator ROCKEFELLER.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

Mr. ROCKEFELLER. I thank the Presiding Officer and the Senator from Arkansas. If there was a sense upon my colleagues of nervousness just before Senator PRYOR offered his amendment—there was a lot of huddling—in the sense of what was going to happen, my colleagues noticed correctly. I think that there was an effort to try and not have a vote on this tonight, because this is one of the most important amendments that we will vote on in this entire, somewhat bizarre process.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. PRYOR. I yield 30 seconds to the Senator from Florida.

The PRESIDING OFFICER. The Senator from Florida is recognized.

Mr. GRAHAM. Mr. President, I ask unanimous consent to be listed as an original cosponsor of the amendment. I point out that the arguments against this amendment are going to be that we ought to let the States have unbridled responsibility, discretion as to how to set these standards.

I should point out that in the year 2002 in my State, which has the highest percentage of persons over 80 in the country, that we are going to have 35 percent less funds than is currently projected to meet the needs of our elderly, our frail elderly.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. GRAHAM. If there is any prescription for abuse, it is a 35-percent cut in funds and no Federal standards.

The PRESIDING OFFICER. The Senator's time has expired. Without objection, the Senator's request is granted.

Mr. PRYOR. Mr. President, I yield 20 seconds to the Senator from Maryland, Senator MIKULSKI.

The PRESIDING OFFICER. The Senator from Maryland is recognized.

Ms. MIKULSKI. Mr. President, my father was in a nursing home for 3 years. He had Alzheimer's. We could go and visit him and make sure he was OK. But one of the things we need to know is when people are in a nursing home, they are often too sick to care for themselves or they are too sick to say how they are being cared for. If we do not have Federal standards around safety and staffing to be sure that our—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. PRYOR. Mr. President, I am looking for Senator COHEN, our cosponsor on the other side. I do not see him.

The PRESIDING OFFICER. The Senator has 30 seconds.

Mr. PRYOR. If Senator MIKULSKI needs an additional 20 seconds, I will be glad to yield to her.

Ms. MIKULSKI. Mr. President, the idea of safety is absolutely crucial, that we need adequate staff, but we need to have those standards so that if anyone is too sick to say how they are being cared for, we know that we are preventing their abuse, we know that they are receiving the right medication, we know that they are being adequately cared for.

The PRESIDING OFFICER. The Senator's time has expired. The Senator has 10 seconds left.

Mr. PRYOR. Mr. President, I want to conclude by thanking the distinguished Senator from Maine, Senator COHEN, for not only being a cosponsor, but also having labored for many years in this particular field. He supports strongly this amendment. I also would like—

The PRESIDING OFFICER. Thank you. The Senator's time has expired.

Mr. PRYOR. Mr. President, I also would like to acknowledge Senator BOXER of California who has truly spoken on many occasions and feels compassionate about this amendment.

Mr. DOMENICI. Mr. President, Senator CHAFEE is going to explain where we are. Let me just suggest, at Senator COHEN's suggestion, Senator CHAFEE, and others, the so-called Finance Committee amendment, which you are going to have an evening to look at, will have everything in it Senator COHEN wants and even further improvements than the one before us. So I do not want anyone to think we have done that after we defeat your amendment tonight, because it is in there and you all will see it when we get it circulated.

The PRESIDING OFFICER. The Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I commend the Senator from Arkansas for his efforts in connection with the nursing home standards and, indeed, he and I have worked together in the Finance Committee. I voted with him in connection with his amendment, which was defeated 10 to 10.

Since then, in conjunction with Senator COHEN and others on this side, we have prevailed upon what you might call the managers of the bill to put in a very good Federal nursing home standard provision. As regards nursing homes, there are two provisions in here that I think are superior to the provision that Senator PRYOR has, although I am not intimately familiar with everything that he has.

One, in the provision that we have, we remove the costly and duplicative requirement that standards perform so-called preadmission screening and annual resident review, which is known by the acronym of PASARR, and that

would not be included and it is my understanding that this is a rather good provision.

Second, we have a proposal that if the States have tighter inspection requirements than the Federal, then the States can apply to the Secretary of HHS for a waiver and have those tighter provisions included as the inspection requirements or the standard requirements for the nursing homes within that State.

You might say, ''Well, how do they go about enforcing it?'' We have a provision that it can be enforced by HCFA. So we think that this has a lot of provisions in it that have merit.

I urge those on the other side to take a look at this provision that is in the so-called managers amendment.

Mr. ROCKEFELLER. Will the Senator yield?

The PRESIDING OFFICER. There is still not quiet in the Chamber. The Senator is entitled to be heard.

Mr. GRAHAM. Will the Senator from Rhode Island yield?

Mr. CHAFEE. Quickly, because it is on my time.

Mr. GRAHAM. I agree with what you just said. I would like to be able to compare the specifics of what is going to be offered with what Senator PRYOR and others have offered. When will we have that opportunity?

Mr. DOLE. I can respond. I think that language is ready now. I think we are working on some other language, but that language is ready. That is why we wanted to wait until the morning so we can compare that.

Mr. GRAHAM. The difficulty is we are going to get this sometime in the morning and then be expected to vote on it. We are going to vote on this amendment tonight; correct?

Mr. CHAFEE. I think the suggestion was to put the vote off until the morning and to give you a chance to look at this particular provision.

Mr. GRAHAM. The vote on Senator PRYOR's amendment off until tomorrow?

Mr. DOLE. Both.

Mr. DOMENICI. Both; we ask for both.

The PRESIDING OFFICER. The Chair advises Senators to please go through the Chair so we keep some control.

Who seeks time? There is 1 minute 28 seconds left.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. Mr. President, let me indicate that we have addressed this concern, and I think as Senator CHAFEE pointed out, if we really want to find the best provision, we ought to compare the two. We may not vote on the PRYOR amendment tonight. I will decide how many amendments we vote on this evening. So we will have an opportunity to look at the language in both.

If you are looking for a political vote, we can have the political vote, but if you are looking for the best provision—it was worked out with Senator COHEN, Senator SNOWE, Senator CHAFEE, and others on this side of the aisle. We think it is a pretty good provision. So I hope if we are interested in getting the best provision in the bill, we will do as Senator DOMENICI suggested: Wait until morning, have a vote, find out which is the superior provision, and then vote accordingly.

The PRESIDING OFFICER. The Chair apologizes. The Chair did not ask the Senator from Rhode Island if he would yield to the majority leader.

Mr. CHAFEE. Do I still have control of the time?

I would have been delighted to have yielded that time.

The PRESIDING OFFICER. I again apologize and give back 20 seconds.

Mr. CHAFEE. Was there another question, or does that satisfy everyone?

The PRESIDING OFFICER. There are 18 seconds left to the Senator from Rhode Island.

Mr. CHAFEE. Mr. President, I ask Senator COHEN if he wants to say anything?

Mr. COHEN. I believe I will get 2 minutes to speak.

The PRESIDING OFFICER. There is no time left on the Democratic side.

Mr. EXON. I yield 2 minutes off the bill to the Senator from Maine.

The PRESIDING OFFICER. The Senator from Maine is recognized for 2 minutes.

Mr. COHEN. Mr. President, let me specifically address the issue whether or not this is a political effort on the part of my colleague and friend from Arkansas, Senator PRYOR.

We had a hearing this morning dealing with nursing home standards. I want to say, for the benefit of all who are here, I have been working with Senator DOLE, Senator CHAFEE, Senator SNOWE, and others, to try to make sure that the standards that were set in place by OBRA 1987 go back into place, that we have Federal standards and Federal enforcement of the nursing home rights, as such. Senator DOLE has been most amenable to that.

I think Senator CHAFEE is correct that we have actually made some improvements in cutting back on some of the things that do not need to be there, that are costing money and are duplicative. One issue remaining in my mind is, in fact, the extension of the waiver, so-called, to the States that have higher standards than required by Federal law. The concern I have is that if such standards are so high that they therefore would apply for a waiver, what in fact would be the role of the Federal Government as far as oversight and enforcement? If there will be strict oversight and enforcement, I would recommend we support the bill that we offered as part of the managers' bill. If, however, that is a major loophole that would be seen as such by those in the business itself—the nursing home industry, providers and consumers—I would have problems supporting the substitute contained in the managers' bill. I have not seen the language.

I think Senator DOLE is correct. We ought to put this off until tomorrow so we can compare the language. If we are satisfied there will be adequate oversight and enforcement authority retained by the Federal Government, I would recommend to my colleague from Arkansas that we accept the managers' bill.

Mr. PRYOR. If my friend from Maine will yield, Mr. President, let me remind my colleagues that in the managers' amendment to be offered by Senator ROTH tomorrow, the nursing home provision is only a very, very small part of it. There is going to be, as I understand it, a change in the Medicaid formula, also encompassed in the managers' amendment. This is only a small section of it.

I think we should go ahead according to schedule. We have all been here all day, playing by the rules. Let us vote for the Pryor amendment and the Pryor-Cohen amendment tonight, and if we need to change it tomorrow, we can, and we can look at it tomorrow.

The PRESIDING OFFICER. The time of the Senator has expired. All time on the amendment has expired.

Mr. PRYOR. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. EXON. Mr. President, we are down to the final amendment, as I understand it, we will be debating tonight. Therefore, I yield the 5 minutes on our side to Senator SIMON for his distribution.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. SIMON. Mr. President, I yield myself 2 minutes.

AMENDMENT NO. 2984

(Purpose: In the nature of a substitute)

Mr. SIMON. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. SIMON], for himself and Mr. CONRAD, proposes an amendment numbered 2984.

Mr. SIMON. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The text of the amendment is printed in today's RECORD under ''Amendments Submitted.'')

Mr. SIMON. Mr. President, this is the amendment you have read about in the Washington Post when it says a ''Good Budget Compromise.'' This is the amendment the New York Times has editorialized about. This says balance the budget, number one. And we have a comprehensive program to do that. Number two, we eliminate the tax cut.

Senator SPECTER said, ''If you would have a secret vote, 20 Republican Senators would not vote for the tax cut.''

To say we are going to balance the budget, and then start with a tax cut, is like having a New Year's resolution to diet and start with a great big dessert.

Third, we take the CPI and reduce it by one-half of 1 percent. At the Finance Committee meeting, Senator DOLE said, in talking about looking at the CPI, ''This is something we should have addressed years ago.'' This is still below what the special economist said should be a drop of between 0.7 to 2 points.

Third, we help the less fortunate in our society. Instead of a savings of $270 billion in Medicare, it is $168 billion. Instead of $187 billion in Medicaid, it is $83 billion. Welfare reform—there is $36 billion more for poor people. Discretionary spending, $79 billion more. Veterans programs are assisted. Agriculture programs are assisted. Student loan programs are helped.

This is a balanced program that makes sense and it balances the budget in a prudent way. I hope we can move in this direction.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. SIMON. I yield 2 minutes to the Senator from North Dakota, Mr. President.

Mr. CONRAD. I thank the Senator from Illinois. This is an amendment for those who disagree with cutting taxes by $245 billion at the very time we are adding $1.8 trillion to the national debt. This is the amendment for those who are concerned that the Medicare and Medicaid cuts are too severe. This is the amendment for those who oppose cuts in education. This is the amendment for those who want welfare to be work-oriented but protect the children. This is the amendment for those who are concerned about the raid on rural America contained in the underlying bill. This is the amendment for those who recognize that CPI overstates the cost of living. The advisory commission to the Finance Committee said it is overstated by .7 to 2.0. That means adding $600 billion to the national debt over the next 7 years.

Mr. President, I hope my colleagues will support this amendment to fairly balance the budget.

The PRESIDING OFFICER. Who yields time?

Mr. DOMENICI. How much time do I have on the amendment, and how much time do they have?

The PRESIDING OFFICER. The Senator from New Mexico has 5 minutes; the minority has 1 minute 50 seconds.

Mr. DOMENICI. Mr. President, let me remind Senators of a couple of things. First of all, the Consumer Price Index provides $115 billion of the money needed to balance their budget. In addition, Medicare is getting cut, or hit, or reformed $168 billion. So we are doing both Medicare and CPI. And then, third, and equally as important, the fiscal dividend that is not supposed to be there until you are in balance—that is how we thought it worked, that you get to balance and you get a fiscal dividend—they take the $170 billion fiscal dividend, before in balance, and put it in their balanced budget.

The PRESIDING OFFICER. The Chair cannot hear the Senator.

Mr. DOMENICI. I am pleased that the Chair is concerned, and I thank him. I want to close by saying that I really do not believe this is the kind of budget we want to adopt here tonight. I think if anybody had a real chance to look through it and go into detail, they would agree with the Senator from New Mexico.

I want to go through the three. You get $115 billion by changing the CPI by .5. I was wondering a little while ago—my friends on the Democrat side were concerned because we had not given them our amendments. Most are one page. We just got this one now, in case anybody wonders, which is all right. I am not complaining. It is just that we do not know very much about it. These few little facts are about the best I can do.

Mr. FORD. Now you know how we feel when we have 2,000 pages.

Mr. DOMENICI. I think you got those pursuant to the rules. They were before you all. This was presented right here, tonight, to us. I do not want to take any more time. I will yield the remainder of my time.

Mr. SIMON. Mr. President, I yield 50 seconds to my colleague from Virginia.

Mr. ROBB. Mr. President, I thank my colleague and friend from Illinois. I will not make a full statement at this time. I will put one in the RECORD. Suffice it to say—I say this to my good friends on the other side of the aisle—this is where we ought to be going. This is a tough, fair, principled budget that reflects the kind of distribution that we ought to be looking toward if we are going to come up with a reasonable solution to the fiscal challenges that are facing the country today, and it does it without a $245 billion tax cut that we simply cannot afford and should not be giving under the circumstances.

I am pleased to join my fiscally responsible colleagues in offering an alternative that I think meets the test that this country is looking for us to meet.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SIMON. I yield myself the remainder of the time.

In terms of the fiscal dividends that Senator DOMENICI is talking about, we balance the budget also, so we have the same savings on interest.

In terms of the size of this—and I recognize this is not going to pass tonight—but I think this may be the basis for a compromise that we may move toward. I think there is a lot of common sense in this.

In terms of the CPI, it is less than was recommended to the Finance Committee by the economic experts, and what it means for a person who is in the median on Social Security getting $770, it would be a reduction of $3.85 for which that person gets more help on Medicare and Medicaid.

I think seniors would welcome this proposal.

Mr. DOMENICI. I yielded back my time, but I ask unanimous consent to retrieve 1 minute of it to yield to Senator NICKLES.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NICKLES. Mr. President, I thank my colleague from New Mexico. I join him in opposition to this amendment.

Although I compliment the sponsors of the amendment for saying we should use an accurate CPI, they do not go as far as that that was proposed by a group of economists that said we should use from 0.7 percent even and maybe above 1 percent. Whatever the percent is, it should be accurate, and most estimates are that 0.5 percent, which would save something like $115 billion, is on the low side. So I compliment them for doing that.

I rise in opposition to their proposal because they want to spend $245 billion more so we do not tax more. I would like to give taxpayers a break for $245 billion and reduce spending to pay for it. That is the difference between the two.

I compliment them for a very significant element of this package and hope that ultimately we will use accurate CPI reflection in all of our cost-of-living adjustments.

Mr. DOLE. Mr. President, as I understand, all the amendments have been offered that will be offered this evening in tier 2. The committee amendment will be offered tomorrow morning.

I now ask unanimous consent that the votes scheduled to begin now be limited to 8 minutes after the first rollcall vote, with 1 minute for explanation between each vote to be equally divided in the usual form.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOLE. Let me persuade my colleagues we will have about 18 votes here. If we all stay in the Chamber we will probably save 20 or 30 minutes. There are not many places to go at 9:30 at night around here. They can watch the ball game right off the floor. Hopefully, we will accommodate one another by being here.

The first vote will be the normal 15 minutes plus 5 to give people time to come back from wherever they want to come back from.

The PRESIDING OFFICER. Does the request include 1 minute before the first vote?

Mr. DOLE. One minute before each vote equally divided in the usual form.

We will start tomorrow morning at 9 o'clock, and we hope to have 7½-minute votes after the first vote, so we ask all Senators to remain in the Chamber—not overnight but be back here.

Mr. DOMENICI. Mr. President, I wonder if Senator EXON would join in requesting from his side what I request for our side.

We still have a third tier, which are all the amendments that will not get debated. We would like to use the evening now while we are here voting to have you get as many together so we know, maybe tonight or early morning, how many you have. And we have some. Perhaps we can give the Senators an idea, then, by midmorning on how many there are.

Mr. EXON. I advise my colleague we have been working on that. We were talking about it a few minutes ago in the Cloakroom. We do not have a definitive number. We have made major reductions generally in the area that we have been indicating to you in our series of negotiations about where we think we will end up. I do not know that I can give a specific number tonight. I will explore that.

The PRESIDING OFFICER. The first amendment is numbered 2964 by Senator MCCAIN and others; 1 minute, equally divided. Who yields time?

Mr. DOLE. I yield back the time.

The PRESIDING OFFICER. Is all time yielded back on this amendment? Does the Senator from Nebraska yield back the 30 seconds?

Mr. EXON. I yield back my time.

The PRESIDING OFFICER. All time is yielded back.

Mr. NICKLES. I ask for the yeas and nays.

The PRESIDING OFFICER. They have been ordered.

Mr. DOLE. Did we order the yeas and nays on all the amendments?

The PRESIDING OFFICER. Is there an objection for all the yeas and nays to be ordered at one time?

Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered on all amendments that have been debated so far.

VOTE ON AMENDMENT NO. 2964

The PRESIDING OFFICER. The clerk will call the roll on amendment No. 2964.

The assistant legislative clerk called the roll. The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 507 Leg.]

YEAS—99

Abraham	Coverdell	Harkin
Akaka	Craig	Hatch
Ashcroft	D'Amato	Hatfield
Baucus	Daschle	Heflin
Bennett	DeWine	Helms
Biden	Dodd	Hollings
Bingaman	Dole	Hutchison
Bond	Domenici	Inhofe
Boxer	Dorgan	Inouye
Bradley	Exon	Jeffords
Breaux	Faircloth	Johnston
Brown	Feingold	Kassebaum
Bryan	Feinstein	Kempthorne
Bumpers	Ford	Kennedy
Burns	Frist	Kerrey
Byrd	Glenn	Kerry
Campbell	Gorton	Kohl
Chafee	Graham	Kyl
Coats	Gramm	Lautenberg
Cochran	Grams	Leahy
Cohen	Grassley	Levin
Conrad	Gregg	Lieberman
Lott	Nunn	Simon
Lugar	Pell	Simpson
Mack	Pressler	Smith
McCain	Pryor	Snowe
McConnell	Reid	Specter
Mikulski	Robb	Stevens
Moseley-Braun	Rockefeller	Thomas
Moynihan	Roth	Thompson
Murkowski	Santorum	Thurmond
Murray	Sarbanes	Warner
Nickles	Shelby	Wellstone

The amendment (No. 2964) was agreed to.

AMENDMENT NO. 2965

The PRESIDING OFFICER. Ladies and gentlemen, the next amendment is amendment 2965 by Mr. HELMS, 1 minute equally divided.

Mr. ROCKEFELLER. May we have order.

The PRESIDING OFFICER. There will be 1 minute equally divided on this amendment prior to the vote.

The Chair recognizes the Senator from North Carolina.

This is going to be a long night unless we can get quiet after these votes.

Mr. HELMS. Mr. President, I think this is one of few times when both sides are in favor of an amendment. It is to protect the right of senior citizens to choose their own doctors if they wish.

I think the distinguished manager of the bill, Mr. DOMENICI, has a clarification.

Mr. DOMENICI. I would like to say for the Republicans, there is a technical error on the explanation. This amendment has been modified so that the language in our Whip Notice—it says, ''if you don't comply, they are not eligible for Medicare reimbursement''—is out of this. It is not in this amendment. I think the amendment deserves to be adopted.

Mr. ROCKEFELLER addressed the Chair.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, this amendment pretends that the Republican budget's destructive plan for Medicare will preserve the senior citizen's ability to get their care through fee for service and continue to see his or her own doctor.

Now, it is fine to pretend, so vote for the amendment. It is all right. It is not going to do any harm. Make no mistake. There is no guarantee of anything in the Helms amendment for seniors and their future ability to see their own doctor.

Mr. HELMS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. The yeas and nays have been ordered on every amendment.

Mr. DOLE. Mr. President, this will be an 8-minute vote.

The PRESIDING OFFICER. This is an 8-minute vote.

Mr. DOLE. This is the test. If we all stay here, we may finish.

The PRESIDING OFFICER. All time has expired. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER (Mr. SANTORUM). Are there any other Senators in the Chamber who desire to vote?

The result was announced—yeas 79, nays 20, as follows:

[Rollcall Vote No. 508 Leg.]

YEAS—79

Abraham	Frist	McConnell
Akaka	Glenn	Mikulski
Baucus	Graham	Moseley-Braun
Biden	Gramm	Moynihan
Boxer	Grassley	Murkowski
Bradley	Harkin	Murray
Breaux	Hatch	Nickles
Brown	Heflin	Nunn
Bumpers	Helms	Pell
Burns	Hollings	Pressler
Byrd	Hutchison	Pryor
Campbell	Inhofe	Robb
Cochran	Inouye	Rockefeller
Cohen	Johnston	Roth
Conrad	Kassebaum	Santorum
Coverdell	Kempthorne	Sarbanes
Craig	Kennedy	Shelby
D'Amato	Kerrey	Simon
DeWine	Kerry	Smith
Dole	Kohl	Snowe
Domenici	Kyl	Specter
Dorgan	Lautenberg	Stevens
Exon	Leahy	Thurmond
Faircloth	Levin	Warner
Feingold	Lott	Wellstone
Feinstein	Lugar	
Ford	McCain	

NAYS—20

Ashcroft	Daschle	Lieberman
Bennett	Dodd	Mack
Bingaman	Gorton	Reid
Bond	Grams	Simpson
Bryan	Gregg	Thomas
Chafee	Hatfield	Thompson
Coats	Jeffords	

So the amendment (No. 2965) was agreed to.

Mr. HELMS. I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2969

The PRESIDING OFFICER. The question occurs on agreeing to amendment No. 2969 offered by the Senator from Colorado [Mr. BROWN]. The yeas and nays are ordered.

There will be 1 minute equally divided on the question.

Who yields time?

Mr. DOLE. The time is running.

The PRESIDING OFFICER. Time is running. Who wants to claim the 30 seconds on each side?

Mr. BROWN addressed the Chair.

The PRESIDING OFFICER. The Senator from Colorado [Mr. BROWN] is recognized for 26 seconds.

Mr. BROWN. The measure that is before the Senate takes a 1993 limitation on business' ability to deduct salaries in excess of $1 million and applies it, not to just publicly traded corporations to which it applies to now, it applies it to nonpublicly traded organizations and other business. It is a fairness question. It is grandfathered for any existing contracts, but I might say the money that is raised goes to reduce the Social Security earnings penalty.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. EXON. I yield back our 30 seconds.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2969.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 509 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone

So, the amendment (No. 2969) was agreed to.

Mr. BROWN. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. DOLE. Mr. President, let me observe that, out of the three votes, we have had two unanimous votes. Maybe some could be done by voice vote. It would save some time. Otherwise, we are going to stay on the eight-minute schedule, and I urge my colleagues to stay on the premises.

AMENDMENT NO. 2970

The PRESIDING OFFICER. The pending question is amendment No. 2970.

Mr. EXON. I yield 30 seconds to the Senator from Iowa.

Mr. HARKIN. Mr. President, this amendment is the fraud, waste, and abuse amendment. It saves $600 million, by CBO's estimate, more than the underlying amendment. This is a culmination of 5 years of hearings.

All of the things in this amendment were recommended by the Inspector General's office and by GAO. It saves more than $600 million. In sum, all I can tell you is what this does. It says that when the Veterans Administration pays 4 cents for a bandage and Medicare pays 86 cents, something is wrong. Let us pay the same thing as the Veterans Administration. That is what this amendment does.

Mr. DOMENICI. Mr. President, I yield to Senator COHEN.

Mr. COHEN. Mr. President, the antifraud provision in the Finance Committee measure has been the product of over 3 years of effort on my part. I have had to work with Justice, FBI, the White House, providers, consumers, and they support the provision as written.

In addition to that, there is a deletion under my bill which would allow the criminal fines imposed under the violation to go back into the Medicare trust fund. That is deleted under the Senator's amendment.

I urge that we reject this amendment for a variety of reasons but, most of all, because it would make a last-minute change over something that is accepted by virtually everybody.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, the pending amendment is not germane to the provisions of the reconciliation bill pursuant to section 305(b)(2). I raise a point of order against the pending amendment.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the pending amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays are ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The yeas and nays resulted—yeas 43, nays 56, as follows:

[Rollcall Vote No. 510 Leg.]

YEAS—43

Akaka	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Breaux	Heflin	Nunn
Bryan	Inouye	Pell
Bumpers	Johnston	Pryor
Byrd	Kennedy	Reid
Conrad	Kerrey	Robb
Daschle	Kerry	Rockefeller
Dodd	Kohl	Sarbanes
Dorgan	Lautenberg	Simon
Exon	Leahy	Wellstone
Feingold	Levin	
Feinstein	Lieberman	

NAYS—56

Abraham	Dole	Kempthorne
Ashcroft	Domenici	Kyl
Baucus	Faircloth	Lott
Bennett	Frist	Lugar
Bond	Gorton	Mack
Bradley	Gramm	McCain
Brown	Grams	McConnell
Burns	Grassley	Murkowski
Campbell	Gregg	Nickles
Chafee	Hatch	Pressler
Coats	Hatfield	Roth
Cochran	Helms	Santorum
Cohen	Hollings	Shelby
Coverdell	Hutchison	Simpson
Craig	Inhofe	Smith
D'Amato	Jeffords	Snowe
DeWine	Kassebaum	Specter
Stevens	Thomas	Thurmond
	Thompson	Warner

The PRESIDING OFFICER. On this vote the ayes are 43, the nays are 56. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion to waive the Budget Act is rejected. The point of order is well taken and the amendment falls.

AMENDMENT NO. 2971

The PRESIDING OFFICER. The next amendment is amendment No. 2971. There are 30 seconds on each side for debate.

Mr. McCAIN. Mr. President, this amendment removes about $60 billion worth of corporate pork over a period of 7 years. It has bipartisan support.

For the information of my colleagues, it does not include the auction of public safety spectrum. Obviously, that would be exempt from the auction of spectrum.

Mr. President, I understand the point of order may be lodged against this amendment. It makes no sense to lodge a point of order against an amendment that would reduce spending, which is what this legislation is supposed to be all about.

Mr. EXON. The pending amendment would add two new matters to the bill and violate the prohibition of nongermane amendments. I raise a point of order that the pending amendment is therefore not germane and thus violates section 305(b)(2) of the Congressional Budget Act of 1974.

I yield back the remainder of my time. I ask for the yeas and nays.

Mr. McCAIN. I move to waive the point of order and ask for the yeas and nays.

The PRESIDING OFFICER. The question is on the motion.

Is there a sufficient second?

There is a sufficient second.

The question is on the motion to waive the Budget Act.

The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote? The yeas and nays resulted—yeas 25, nays 74, as follows:

[Rollcall Vote No. 511 Leg.]

YEAS—25

Abraham	Gramm	Lautenberg
Biden	Grams	McCain
Bradley	Grassley	Moynihan
Brown	Gregg	Pell
Coats	Hutchison	Robb
Cohen	Jeffords	Roth
Dole	Kennedy	Thompson
Faircloth	Kerry	
Feingold	Kohl	

NAYS—74

Akaka	Chafee	Ford
Ashcroft	Cochran	Frist
Baucus	Conrad	Glenn
Bennett	Coverdell	Gorton
Bingaman	Craig	Graham
Bond	D'Amato	Harkin
Boxer	Daschle	Hatch
Breaux	DeWine	Hatfield
Bryan	Dodd	Heflin
Bumpers	Domenici	Helms
Burns	Dorgan	Hollings
Byrd	Exon	Inhofe
Campbell	Feinstein	Inouye

Johnston
Kassebaum
Kempthorne
Kerrey
Kyl
Leahy
Levin
Lieberman
Lott
Lugar
Mack
McConnell
Mikulski
Moseley-Braun
Murkowski
Murray
Nickles
Nunn
Pressler
Pryor
Reid
Rockefeller
Santorum
Sarbanes
Shelby
Simon
Simpson
Smith
Snowe
Specter
Stevens
Thomas
Thurmond
Warner
Wellstone

The PRESIDING OFFICER. On this vote, the yeas are 25, the nays are 74. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected.

The point of order is well taken and the amendment falls.

AMENDMENT NO. 2972

The PRESIDING OFFICER. The question occurs on amendment 2972, offered by the Senator from West Virginia.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

The PRESIDING OFFICER. The Senator from West Virginia is recognized for 30 seconds.

The Senate will please come to order.

The Senator from West Virginia.

Mr. BYRD. Mr. President, my amendment restores $712 million rescinded by the bill in 48 States in highway funds.

The PRESIDING OFFICER. The Senator will suspend. Senators will please come to order.

Mr. BYRD. Senators will find on their desks a detailed table which shows the reductions that were made in each of the 48 States.

I restore this money by closing a corporate loophole. The corporate loophole is closed by the House by a phaseout in 4 years; closed by the bill by a phaseout in 5 years. I say, let us go with the House, phase out the loophole in 4 years and restore $712 million in highway funds to the 48 States.

The PRESIDING OFFICER. The time of the Senator has expired. The Senator from New Mexico.

Mr. DOMENICI. Mr. President, for those who thought the highway demonstration programs were good programs and all the projects were good projects, obviously you ought to vote for this.

They were never spread equally across the land. They had very significant preferential treatment, depending upon a lot of things. So I think the committee that decided to do this acted appropriately, especially since they applied the savings to a very good cause.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 46, nays 53, as follows:

[Rollcall Vote No. 512 Leg.]

YEAS—46

Abraham
Akaka
Baucus
Biden
Boxer
Breaux
Bryan
Bumpers
Byrd
Conrad
Daschle
Dodd
Dorgan
Exon
Feingold
Feinstein
Ford
Glenn
Harkin
Hatfield
Heflin
Inouye
Jeffords
Johnston
Kennedy
Kerrey
Kohl
Lautenberg
Leahy
Levin
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Pell
Pressler
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Specter
Stevens
Wellstone

NAYS—53

Ashcroft
Bennett
Bingaman
Bond
Bradley
Brown
Burns
Campbell
Chafee
Coats
Cochran
Cohen
Coverdell
Craig
D'Amato
DeWine
Dole
Domenici
Faircloth
Frist
Gorton
Graham
Gramm
Grams
Grassley
Gregg
Hatch
Helms
Hollings
Hutchison
Inhofe
Kassebaum
Kempthorne
Kerry
Kyl
Lieberman
Lott
Lugar
Mack
McCain
Murkowski
Nickles
Nunn
Roth
Santorum
Shelby
Simpson
Smith
Snowe
Thomas
Thompson
Thurmond
Warner

So, the amendment (No. 2972) was rejected.

Mr. DOMENICI. I move to reconsider the vote.

Mr. DOLE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2973

The PRESIDING OFFICER. The question occurs on amendment No. 2973 offered by the Senator from Rhode Island, Senator CHAFEE.

The Senator from Rhode Island is recognized for 30 seconds.

Mr. CHAFEE. Mr. President, I am pleased to be joined in this amendment by Senators CONRAD and FRIST. The reconciliation bill says States must cover the disabled but does not define who is disabled. This amendment adopts the same definition of ''disabled'' as we used in the welfare bill which we passed——

Mr. HARKIN. Point of order. The Senate is not in order.

The PRESIDING OFFICER. The Senator is correct.

The Senate will please come to order. Those Senators in front of the Chair, please take your conversations to the cloakroom.

Mr. CHAFEE. Do I start my 30 seconds over?

The PRESIDING OFFICER. The Senator has 16 seconds remaining.

Mr. CHAFEE. Well, I will start. This amendment adopts the same definition of ''disabled'' as we used in the welfare bill which we passed 87–12. It does not include substance abuses. That is a mistake in the little chit that was circulated here. These individuals are at 75 percent of the poverty level or less. They cannot get health insurance. This safety net is essential to them if they are going to stay in the community.

The PRESIDING OFFICER. Time has expired.

Mr. EXON. I yield 30 seconds to the Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, two excellent Senators are offering this amendment and trying to protect the basic Medicaid coverage for the very poorest, very oldest and disabled Americans.

I hope everybody will vote for it. But, again, you cannot turn a frog into a prince. The underlying bill would require 200 such amendments to make it agreeable. I hope people will support this.

The PRESIDING OFFICER. The time has expired.

Mr. DOMENICI. Do we not get to speak against it, since both sides were for it? There was no opposition.

Mr. DOLE. I would ask unanimous consent to proceed for 30 seconds.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader.

Mr. DOLE. This is another infringement on the Governors. We are going to turn over these programs, make them entitlements, and give them block grants, and make it impossible for Democrats or Republicans to administer the program.

We had this argument. We discussed it long and hard with the Senator from Rhode Island. I hope we would defeat this amendment. If you do not have any faith in your Governor, then vote the other way.

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to amendment No. 2973.

The yeas and nays are ordered. The clerk will call the roll.

The bill clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 60, nays 39, as follows:

[Rollcall Vote No. 513 Leg.]

YEAS—60

Akaka
Baucus
Biden
Bingaman
Boxer
Bradley
Breaux
Bryan
Bumpers
Byrd
Chafee
Cohen
Conrad
Daschle
DeWine
Dodd
Domenici
Dorgan
Exon
Feingold
Feinstein
Ford
Frist
Glenn
Graham
Gregg
Harkin
Hatfield
Heflin
Hollings
Inouye
Jeffords
Johnston
Kassebaum
Kennedy
Kerrey
Kerry
Kohl
Lautenberg
Leahy
Levin
Lieberman
McConnell
Mikulski
Moseley-Braun
Moynihan
Murray
Nunn
Pell
Pryor
Reid
Robb
Rockefeller
Sarbanes
Simon
Simpson
Snowe
Specter
Stevens
Wellstone

NAYS—39

Abraham
Ashcroft
Bennett
Bond
Brown
Burns
Campbell
Coats
Cochran
Coverdell
Craig
D'Amato
Dole
Faircloth
Gorton
Gramm
Grams
Grassley
Hatch
Helms
Hutchison
Inhofe
Kempthorne
Kyl

Lott	Nickles	Smith
Lugar	Pressler	Thomas
Mack	Roth	Thompson
McCain	Santorum	Thurmond
Murkowski	Shelby	Warner

So, the amendment (No. 2973) was agreed to.

Mr. CHAFEE. Mr. President, I move to reconsider the vote by which the amendment was agreed to.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2963

The PRESIDING OFFICER. The question recurs on amendment No. 2963 offered by the Senator from Louisiana.

A motion to table is pending on which the yeas and nays have been ordered. Who yields time?

Mr. EXON. I yield 30 seconds to the Senator from Louisiana.

The PRESIDING OFFICER. The Senator from Louisiana is recognized for 30 seconds.

Mr. BREAUX. Mr. President, I say to my colleagues, I urge my Republican colleagues to vote for this tonight, because NEWT GINGRICH is going to do it in conference. You all are going to be on record of voting against it. They are going to fix it in conference.

I suggest to vote against tabling, because you can add 44 percent more children who would benefit from the child tax credit. Without this amendment, you are cutting off 31 million youngsters who will not benefit from the tax credit. It is that simple. Guess what? They are going to do it in conference.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. I yield my time to Senator NICKLES.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. NICKLES. Mr. President, I urge my colleagues to vote against this amendment. This amendment would build another entitlement program, another brandnew entitlement program into the Tax Code. According to the Joint Tax Committee, the Breaux amendment would increase outlays by $37 billion over 7 years. I urge my colleagues to vote no.

The PRESIDING OFFICER. The question is on agreeing to the motion to table the Breaux amendment. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 53, nays 46, as follows:

[Rollcall Vote No. 514 Leg.]

YEAS—53

Abraham	Cochran	Frist
Ashcroft	Cohen	Gorton
Bennett	Coverdell	Gramm
Bond	Craig	Grams
Brown	D'Amato	Grassley
Burns	DeWine	Gregg
Campbell	Dole	Hatch
Chafee	Domenici	Hatfield
Coats	Faircloth	Helms
Hutchison	McCain	Smith
Inhofe	McConnell	Snowe
Jeffords	Murkowski	Specter
Kassebaum	Nickles	Stevens
Kempthorne	Pressler	Thomas
Kyl	Roth	Thompson
Lott	Santorum	Thurmond
Lugar	Shelby	Warner
Mack	Simpson	

NAYS—46

Akaka	Feinstein	Lieberman
Baucus	Ford	Mikulski
Biden	Glenn	Moseley-Braun
Bingaman	Graham	Moynihan
Boxer	Harkin	Murray
Bradley	Heflin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Robb
Conrad	Kerrey	Rockefeller
Daschle	Kerry	Sarbanes
Dodd	Kohl	Simon
Dorgan	Lautenberg	Wellstone
Exon	Leahy	
Feingold	Levin	

So the motion to lay on the table the amendment (No. 2963) was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. EXON. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2975, AS MODIFIED

The PRESIDING OFFICER. The pending business is amendment No. 2975 offered by the Senator from Missouri [Mr. BOND].

The Senator from Missouri has 30 seconds.

Mr. BOND. Mr. President, pursuant to a unanimous consent agreement when I offered the amendment, I send a modification to the desk.

The PRESIDING OFFICER. The Senator has that right.

The amendment is so modified.

The amendment (No. 2975), as modified, is as follows:

On page 1620 after line 1 insert:

SUBCHAPTER A—HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS

SEC. 12201. INCREASE IN DEDUCTION FOR HEALTH INSURANCE COSTS OF SELF-EMPLOYED INDIVIDUALS.

(a) INCREASE IN DEDUCTION.—Section 162(1) is amended—

(1) by striking ''30 percent'' in paragraph (1) and inserting ''55 percent''.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 1995.

Mr. BOND. Mr. President, when I raised the question of deductibility of health insurance, I said we were looking for another offset. I have been able to work with the managers and the majority leader. They have enabled us to eliminate the offsets which would have taken out the long-term care insurance, and we are able to raise the deductibility for self-employed individuals and small business people from 30 to 55 percent. I believe that this is something we can work with in conference.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. BOND. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. They have already been ordered.

Mr. PRYOR. Mr. President, I am the cosponsor on this side of the Bond amendment. I strongly support this amendment. We hoped, originally, that we would be able to permit the self-employed to deduct 100 percent of their insurance premiums, and this looks like they are going to take about 55 percent. This is the best we could do, but it is better than in the past.

Mr. WELLSTONE. Can I ask what the offset is?

Mr. DOMENICI. Mr. President, the time has expired.

Mr. DOLE. We did not need an offset. We found another area where they overestimated or underestimated, or whatever it is.

The PRESIDING OFFICER. All time has expired.

Mr. DOMENICI. Mr. President, I wonder, will the Senator withdraw the yeas and nays?

Mr. BOND. We would like the yeas and nays since everybody is here.

Mr. DOMENICI. OK.

The PRESIDING OFFICER. The question is on agreeing to the amendment, as modified.

The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 515 Leg.]

YEAS—99

Abraham	Feingold	Lott
Akaka	Feinstein	Lugar
Ashcroft	Ford	Mack
Baucus	Frist	McCain
Bennett	Glenn	McConnell
Biden	Gorton	Mikulski
Bingaman	Graham	Moseley-Braun
Bond	Gramm	Moynihan
Boxer	Grams	Murkowski
Bradley	Grassley	Murray
Breaux	Gregg	Nickles
Brown	Harkin	Nunn
Bryan	Hatch	Pell
Bumpers	Hatfield	Pressler
Burns	Heflin	Pryor
Byrd	Helms	Reid
Campbell	Hollings	Robb
Chafee	Hutchison	Rockefeller
Coats	Inhofe	Roth
Cochran	Inouye	Santorum
Cohen	Jeffords	Sarbanes
Conrad	Johnston	Shelby
Coverdell	Kassebaum	Simon
Craig	Kempthorne	Simpson
D'Amato	Kennedy	Smith
Daschle	Kerrey	Snowe
DeWine	Kerry	Specter
Dodd	Kohl	Stevens
Dole	Kyl	Thomas
Domenici	Lautenberg	Thompson
Dorgan	Leahy	Thurmond
Exon	Levin	Warner
Faircloth	Lieberman	Wellstone

So the amendment (No. 2975), as modified, was agreed to.

BIDEN MOTION TO COMMIT

The PRESIDING OFFICER. The question is on agreeing to the motion to commit with instructions offered by the Senator from Delaware.

The Senator from Delaware is recognized for 30 seconds.

Mr. BIDEN. Mr. President, one thing all Americans say they care about is to get a college education for their children.

This amendment will allow—it costs $35 billion, roughly $5 billion a year, and it would allow a $10,000 per year deduction—maximum deduction—for the cost of college tuition for couples making up to $120,000, or individuals up to $90,000.

This is a genuine benefit for the middle class, and we do exactly what the Republican bill does. The way in which we get the money is restrict the growth of tax expenditures.

Mr. DOMENICI. Mr. President, has there been a motion to table?

The PRESIDING OFFICER. No.

Mr. DOMENICI. I yield back any time I have. I move to table the Biden amendment and ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Yeas and nays they were ordered.

The PRESIDING OFFICER. The question is on the motion to table.

The clerk will call the roll.

The assistant legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The result was announced, yeas 55, nays 44, as follows:

[Rollcall Vote No. 516 Leg.]

YEAS—55

Abraham	Gorton	McConnell
Ashcroft	Gramm	Mikulski
Bennett	Grams	Murkowski
Bond	Grassley	Nickles
Brown	Gregg	Pressler
Burns	Hatch	Robb
Campbell	Hatfield	Roth
Chafee	Heflin	Santorum
Coats	Helms	Shelby
Cochran	Hutchison	Simpson
Coverdell	Inhofe	Smith
Craig	Jeffords	Snowe
D'Amato	Kassebaum	Stevens
DeWine	Kempthorne	Thomas
Dole	Kyl	Thompson
Domenici	Lott	Thurmond
Faircloth	Lugar	Warner
Feingold	Mack	
Frist	McCain	

NAYS—44

Akaka	Exon	Levin
Baucus	Feinstein	Lieberman
Biden	Ford	Moseley-Braun
Bingaman	Glenn	Moynihan
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Hollings	Pell
Bryan	Inouye	Pryor
Bumpers	Johnston	Reid
Byrd	Kennedy	Rockefeller
Cohen	Kerrey	Sarbanes
Conrad	Kerry	Simon
Daschle	Kohl	Specter
Dodd	Lautenberg	Wellstone
Dorgan	Leahy	

So, the motion to lay on the table the motion to commit was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. FORD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2976

The PRESIDING OFFICER. The question occurs on amendment No. 2976 offered by the Senator from Maine, Ms. SNOWE, on which the yeas and nays have been ordered.

The Senator from Maine.

Ms. SNOWE. I thank the Chair.

First of all, I would like to say that this amendment is cosponsored by Senators D'AMATO, SHELBY, BIDEN, MACK, MURKOWSKI, HUTCHISON, GRAMM, COHEN, and JEFFORDS.

This amendment is a sense of the Senate that would provide coverage under Medicare for breast and prostate cancer.

When changes were made in Medicare back in 1993, there was an inadvertent omission whereby oral drug treatment was not covered under Medicare for breast and prostate cancer. It is a cost-saving measure.

Mr. President, I will ask unanimous consent to vitiate the yeas and nays and ask for a voice vote.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Nebraska.

Mr. EXON. I yield my time back.

The PRESIDING OFFICER. If there is no further debate, the question is on agreeing to the amendment.

The amendment (No. 2976) was agreed to.

AMENDMENT NO. 2977

The PRESIDING OFFICER. The question occurs on amendment No. 2977 offered by the Senator from North Dakota.

The Senator from North Dakota is recognized for 30 seconds.

The Senator will suspend. The Senate will come to order.

Mr. EXON. Mr. President, I yield 30 seconds to the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota is recognized.

Mr. DORGAN. Mr. President, it is an extraordinarily simple amendment. We have in the Tax Code of the United States an incentive, a tax break, a tax deduction for somebody who closes their plant in this country and moves the jobs overseas to a tax haven, produces the same product with foreign workers, then ships the product back to the United States.

This simply gets rid of the tax break for companies that move the jobs overseas. If we cannot close this tax loophole, we cannot close any tax loophole. I would hope we will have an affirmative vote on this amendment.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DOMENICI. Mr. President, I yield back our time.

This amendment contains extraneous material and is not germane and therefore subject to a point of order under the Budget Act.

Mr. EXON addressed the Chair.

The PRESIDING OFFICER. The Senator from Nebraska.

Mr. EXON. Mr. President, pursuant to section 904 of the Congressional Budget Act of 1974, I move to waive the applicable sections of that act for the consideration of the amendment, and I ask for the yeas and nays on the motion to waive.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. DOLE addressed the Chair.

The PRESIDING OFFICER. The majority leader.

Mr. DOLE. This will be the last vote this evening, and we will start voting tomorrow morning at 9:15. The first vote will be on the amendment by——

Mr. FORD. Mr. President, may we have order, please.

The PRESIDING OFFICER. The Senator from Kentucky is correct. The Senate will please come to order.

This is the last vote. Senators will please listen.

Mr. DOLE. Senator GRAMM of Texas. The first vote will come on his amendment, and the first vote will be 20 minutes in length. Then we will go back to our 8 minutes after the first vote. We have had 20 votes today. I wish to thank my colleagues.

Mr. FORD. Mr. President, will the Senator yield? Are we going tomorrow by the schedule of amendments offered, and then we go down that line and then we are on, will be on the last ones?

Mr. DOLE. Right. We are going to go down—that is right, yes.

Mr. FORD. We go as introduced.

Mr. DOLE. Then we go to tier three.

Mr. FORD. I thank the Senator.

Mr. DOLE. Then tier four and tier five.

Mr. FORD. Ten.

The PRESIDING OFFICER. The question is on agreeing to the motion to waive the budget act. The yeas and nays are ordered. The clerk will call the roll.

The legislative clerk called the roll.

The PRESIDING OFFICER. Are there any other Senators in the Chamber who desire to vote?

The yeas and nays resulted—yeas 47, nays 52, as follows:

[Rollcall Vote No. 517 Leg.]

YEAS—47

Akaka	Feinstein	Lieberman
Biden	Ford	Mikulski
Bingaman	Glenn	Moseley-Braun
Boxer	Graham	Murray
Bradley	Harkin	Nunn
Breaux	Heflin	Pell
Bryan	Hollings	Pryor
Bumpers	Inouye	Reid
Byrd	Johnston	Robb
Cohen	Kennedy	Rockefeller
Conrad	Kerrey	Sarbanes
Daschle	Kerry	Simon
Dodd	Kohl	Snowe
Dorgan	Lautenberg	Stevens
Exon	Leahy	Wellstone
Feingold	Levin	

NAYS—52

Abraham	Dole	Kassebaum
Ashcroft	Domenici	Kempthorne
Baucus	Faircloth	Kyl
Bennett	Frist	Lott
Bond	Gorton	Lugar
Brown	Gramm	Mack
Burns	Grams	McCain
Campbell	Grassley	McConnell
Chafee	Gregg	Moynihan
Coats	Hatch	Murkowski
Cochran	Hatfield	Nickles
Coverdell	Helms	Pressler
Craig	Hutchison	Roth
D'Amato	Inhofe	Santorum
DeWine	Jeffords	Shelby

Simpson	Thomas	Warner
Smith	Thompson	
Specter	Thurmond	

The PRESIDING OFFICER. On this vote, the yeas are 47, the nays are 52. Three-fifths of the Senators duly chosen and sworn not having voted in the affirmative, the motion is rejected. The amendment falls.

Mr. GRAMS. Mr. President, I move to reconsider the vote by which the motion was rejected.

Mr. ROTH. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

LIST OF EXTRANEOUS MATTER (THE BYRD RULE)

Mr. DOMENICI. Mr. President, pursuant to section 313(c) of the Budget Act, I submit a list of material considered to be extraneous under subsections 313 (b)(1)(A), (b)(1)(B), and (b)(1)(E) on behalf of the Committee on the Budget.

Section 313(c) of the Budget Act states:

The inclusion or the exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

In addition, this list does not represent the Budget Committee's position on the program or policies represented in these provisions or a waiver of a point of order against these provisions. The Budget Act requires the committee to simply identify potential violations under three components of the Byrd rule and the committee has complied with the law.

That a provision appears on this list does not mean it will automatically be deleted from the bill. A Senator must raise a point of order against the provision and the Presiding Officer must sustain the point of order. The Byrd rule may be waived in the Senate by an affirmative vote of 60 Senators.

This list is a compilation of items identified by both the majority and minority staff of the Senate Budget Committee. The staffs did not agree on every item, but the differences were small when one considers the controversial and comprehensive nature of this bill. I want to thank the staff. The Byrd rule has evolved over the past 10 years and identifying those provisions that violate the rule is a very difficult exercise.

Mr. President, I ask unanimous consent that the list be printed in the RECORD.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

BALANCED BUDGET RECONCILIATION ACT OF 1995—POSSIBLE EXTRANEOUS PROVISIONS; SENATE BILL

(Prepared by the Republican Staff of the U.S. Senate Budget Committee, October 1995)

EXTRANEOUS PROVISIONS—SENATE BILL

Provision	Comments/Violation
	AGRICULTURE, NUTRITION, AND FORESTRY
Sec. 1113(a)(4), 1113(c), and (e) (2)	Clarification on peanut pool and sale, lease, or transfer of farm poundage quota for 1991 through 2000 crops of peanuts and allows non-quota peanuts to become available if market price exceeds 120 percent of loan rate; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1115	Savings adjustment; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1116	Sense of the Senate regarding tax provisions relating to ethanol; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	ARMED SERVICES
	Naval Petroleum Reserve Sale (Elk Hills)
Sec. 2; Sec. 7421a(f)	Requirements on Elk Hills production until sale is completed; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(j)	Requirement that a sale cannot take place unless DOE provides a notice to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(k)	Expedited procedures for Congressional consideration of a resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(l)	Notice to Congress of noncompliance with deadlines; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421a(m)	Requirement that GAO monitor DOE sale and report to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Naval Oil Shale Reserve Sale
Sec. 2; Sec. 7421b(b)	Application of Sec. 7421(h), (j), (k), (l), & (m) to the Oil Shale Reserve sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2; Sec. 7421b(b)(C)	Expedited procedures for consideration of joint resolution of approval of the sale; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 3002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would require the Secretary of Treasury to report to the Congress on the feasibility of a private deposit insurance system.
Sec. 3001(d)	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This subsection outlines a merger of the two deposit insurance funds for banks (BIF) and thrifts (SAIF), but item (4) of this subsection makes implementation of all of subsection (d) contingent on a future act of Congress (which will be necessary to eliminate all thrift charters). Therefore, the entire subsection 3001(d) will have no effect when reconciliation is enacted.
	COMMERCE, SCIENCE AND TRANSPORTATION
Sec. 4001(a)(C), beginning on p. 207, line 1 with ''unless'' through ''1998'' on line 23.	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section 4001 directs the FCC to allocate spectrum to applicants by auction spectrum, but exempts certain parts of the spectrum from being sold at auction. Section 4001(a)(C) lists as one of the exemptions the spectrum to be used for advanced/digital television, with a qualification. That is, the FCC can't auction spectrum for digital TV ''unless'' the FCC submits within six months a new proposal for allocating this spectrum by auction and the Congress ''takes action to approve the plan'' (i.e. enacts a later law with the President's signature). Because the prohibition on auctioning spectrum for digital TV stands on its own and is unaffected by the possibility that Congress could always come back later and change the law, the language telling the FCC to do a new plan that would have to be approved by Congress has no impact on the receipts yielded by the auctions that are authorized in this bill, and therefore that language is extraneous.
Sec. 4002	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. This section would amend a schedule of regulatory fees charged by the FCC to broadcasters. These fees were established by OBRA '93 as permanent offsetting collections to be ''credited to the account providing appropriations'' to the FCC. Two months later, the Commerce-Justice-State appropriations bill for 1994 amended OBRA '93 by saying that these fees ''shall be collected only if, and only in the total amounts, required in Appropriations Acts.'' Therefore, if there is no appropriations action, then these fees cannot be collected. Since future collection of the fees is contingent on future action by the Congress, changing the schedule of fees in this reconciliation bill has no budgetary effect, so the provision is extraneous.
Sec. 4021	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section limits the fee the Coast Guard can charge for inspection of small vessels. Provision does not sunset and causes outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Interest for Oil Spill Recovery Institute.	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending by allowing interest in Oil Spill Liability trust fund attributed to the Oil Spill Recovery Institute (OSRI) be used by the Institute. Provision may or may not sunset, due to interaction with next provision, dealing with Section 1012 in Alaska. Provision will cause outlays beyond the years in which savings are achieved through spectrum auctions.
Sec. 4022(a) Use of Section 1012 in Alaska	Byrd rule (b)(1)(E): A provision which would, on net, increase outlays or decrease revenues in a fiscal year after the period covered by the reconciliation bill. Section provides for new direct spending beginning eleven years after enactment of the 1995 Coast Guard authorization bill by mandating principal attributed to the Oil Spill Recovery Institute (OSRI) in the Oil Spill Liability trust fund be used for oil spill liability and compensation activities in Alaska.
Sec. 4033	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides change in current law to the Local Rail Freight Assistance program allowing for disaster assistance for railroads.
Sec. 4034	Byrd rule (b)(1)(A): Produces no change in outlays or revenues. Section provides for additional eligible state activities under the Local Rail Freight Assistance program.
	ENERGY AND NATURAL RESOURCES
	Subtitle A—United States Enrichment Corporation
Sec. 5002	Enrichment Corporation statement of purpose; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5004(d)(2) & (3)	Enrichment Corporation amendments dealing with the scoring of the proceeds from the sale of the corporation; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5013(a)(1)(B)	Requirement that DOE accept low level nuclear waste from any operator of an enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5013(c)	Waiver of liability for State or Interstate Compact's requirement to accept low level nuclear wate from any enrichment facility; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle C—Arctic Coastal Plain Leasing and Revenue Act
Sec. 5202	Purpose and policy; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5207(d) second sentence	Special Areas reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Portion of Sec. 5215(b)	Reporting requirements (beginning with line 12 on page 48 through line 2 on page 49); Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle D—Park Entrance Fees
Sec. 5300(a)(3)	Authorization of appropriations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5300(a)(10)	Report to Congress on fee collections; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5301	Authorizes Secretary to enter into challenge cost-share agreements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5302	Cost recovery for damage to National Park resources; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 5305(b)(2) second sentence	Reporting requirement to Congress; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle E—Water Projects
Sec. 5410 second sentence of subsection (2)	Hetch Hetchy dam authorizations for Yosemite operations; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle F—Oil and Gas Royalties
5509	Royalty in Kind; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5510	Royalty Simplification Audit and Reporting Requirements; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
5512	Delegation to States; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle H—Mining
5709	Uses and Objectives of Mine Reclamation Fund; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Subtitle K—Radio and Television Communication Site Fees
Sec. 5920	CBO scores no impact from communicatoin fees; Byrd rule (b)(1)(A): Produces no change in outlays or revenues.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
	ENVIRONMENT AND PUBLIC WORKS
Sec. 6003(a)	Findings section regarding highway minimum allocation program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICARE
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	Medicare Choice
Sec. 1895A (c) (2) (B)	''the Secretary shall submit to the Congress recommendations on expanding the definition of 'medicare choice eligible individual' '' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895A (b) (1) (B) (iii)	MSAs—costs $$ relative to the savings of Medicare Choice. Separable. Probably a violation. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895M (d) (3)	''The Secretary shall conduct an analysis of the measurable input cost differences across payment areas''and ''The Secretary shall also determine the degree to which medicare beneficiaries have access''and ''the Secretary shall submit a report'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895M (f)	Demonstration project on market-based reimbursement and competitive pricing. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 1895R (c)	Report on the temporary certification of coordinated care plans. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 1895R (f)	Partial capitation demonstration Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
	Part A provisions
Sec. 7012 (c)	Development [of] National Prospective Payment Rates for Current Non-PPS Hospitals Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7032	Incentive payments to SNFs. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7037	Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part B provisions
Sec. 7043 (c)	Study & report of physician fee schedule. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7044 (c)	Upgraded Durable Medical Equipment. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7050	Physician Supervision of Nurse Anesthetists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Part A & B provisions
Sec. 7056	Treatment of assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (a)	Nothing in this Act shall be construed to change the status under title XVIII of ... (Indian Health Centers). Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7057 (b)	Conforming amendment to change the name/organization for Christian Scientists. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7061 (a)	(C) Share of Savings—Bonus payments to home health agencies. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7061 (a)	(f) Report by Prospective Payment Assessment Commission. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Rural Areas
Sec. 7071	Medicare-dependent small rural hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7072	Medicare rural hospital flexibility: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7073	Rural emergency access care hospitals: increases OL by $0.2B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7074	Payments to physicians in shortage areas: increases OL by $0.4B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7075	Direct fee schedule payments to physician assistants and nurse practitioners: increases OL by $0.3B over 7 years Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7076	Demonstration projects to promote telemedicine. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7077	Prospective Payment Assessment Commission report on updates for urban Medicare-dependent hospitals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Health Care Fraud & Abuse
Sec. 7103	Health Care Fraud and Abuse Guidelines. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7112	Minimum exclusion period for individuals. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7116	Clarification of and additions to exceptions to anti-kickback penalties. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7121	Establishment of the health care fraud and abuse data collection program. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7143	Injunctive relief relating to federal health care offenses. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7144	Grand jury disclosure. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7148	Laundering of monetary instruments. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7149	Authorized investigative demand procedures. Is this a necessary term or condition? Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	Other provisions for trust fund solvency
Sec. 7173	Transfers of certain part B savings to HI trust fund. (i.e., medicare lockbox) Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—MEDICAID
	Draft from October 23, 1995 Committee has not met its 1 or 5 year instruction.
	The provisions listed here as Sec. 2102 through Sec. 2137 are new sections added by Sec. 7191(a) of the reconciliation bill.
Sec. 2102 (b)(7)	Plan must include ''a description of the average amount paid per discharge'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2105 (b)	Each State with a medicaid plan shall establish and maintain an advisory committee (which shall aid in) the development, revision, and monitoring the performance of the medicaid plan'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2106	Secretary shall create a Medicaid Task Force. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (c)	''The medicaid plan shall provide medical assistance for immunizations.'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (d)	''The medicaid plan shall provide prepregnancy planning services and supplies'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (e)	''A medicaid plan may not deny or exclude coverage on the basis of a pre-existing condition'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2111 (f)	''A medicaid plan shall not impose treatment limits on mental illness services'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2116	Causes of action Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2117	Spousal impoverishment mandate. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2122 (g)	Super-block grant. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2123 (g), (h)	Limitations on use of funds. ''No payment shall be made to a State under this part for expenditures for items''(g) abortions; (h) assisted suicide. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 2137	Nursing home standards. ''Each medicaid plan shall provide for the establishment and maintenance of procedures for nursing facilities which furnish services under the plan.''—mandate Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (1)	''No payment shall be made to a State under this part for medical assistance for medical assistance for covered outpatient drugs unless the manufacturer of the drug'' ''No payment shall be made under this part to a State that requires manufacturer rebates'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7192 (a) (2)	''in order for payment to be made to a State under part C for medical assistance for covered outpatient drugs of a manufacturer, the manufacturer must'' Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7194	Authorizes new demonstration project. No appropriation. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7195	CBO Report requiring analysis of effect of block grant on health insurance status. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—NON-HEALTH
Sec 7201: 401	Purpose of Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(C)	3 month notification to State with Indian tribes exercising funding option—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(2)(D) (i) and (ii)	Additional payments for EA where State plan is modified in 1994. Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(a)(2)(D) (iii)	Directed Scoring Post 2000—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(a)(3), (4)(B)	Supplemental Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
403(b)(1)	Limitation on admin expenditures—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(2)	Authority to treat interstate immigrants under rules of former states —Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(4)	Authority to operate employment placement program with grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(b)(5)	Authority to 30% transfer grant to Child Care Block Grant—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(f)	Job Placement Performance Set Aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
403(h)	Contingency Grant Fund—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
404(d)	Required Penalties against Individuals—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(e)	Non Displacement in Work Activities—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(f)	Sense of Congress on use of Job training fund—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
404(g)	Encouragement to Deliver Child Care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
405	Limitations and Requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(a)	Congressional Findings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(b)	State option to deny assistance to out of wedlock births to minor children: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(c)	State option to deny assistance for additional births: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(1) and (2)	Requirement that teenage parents live at home or in supervised arrangements: Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(d)(3)	Grants to States to provide supervised living—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(e)	Requirement that teenage parents attend high school—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
406(f)	Grant to States that reduce out-of-wedlock birthrate—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
406(g)	Denial of assistance by the State not limited to these requirements—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(i)	Report to Congress on Automation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
409(j)	Report to Congress on participation rates compliance—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410	Research, Evaluations, State Rankings—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
410(h)	Direct Spending for additional evaluations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
411	Census Bureau Study—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
412(b)	Hold harmless for cost neutrality from waiver conditions—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
413	State and County Run Demonstrations—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
414(a)	Purpose of provision—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
415	Assistant Secretary for Family Support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
418	High Performance Bonus Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

Provision	Comments/Violation
419(b)	Additional Child Care Funds—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
420	Single state agency in charge of child care—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
421	Tax Refund offset to states for overpayments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7202	Services Provided by Charitable/Religious, or Private Organizations Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7203	No funds provided to institutions may be used for sectarian worship—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7204	Census data on grandparents as primary caregiver—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7205	Study of Effect of Welfare Reform on Grandparents as Caregivers—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7206	Development of new Social Security Card Authorization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7207	Funds used by organizations can not support or oppose publicly without disclosure of receipt of funds. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7208	Modification of JOLI program—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7209	Demo project for School Utilization—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7211	Parental Responsibility Contracts—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7212	Federal funds must be spent in accordance with laws and procedures applicable to state revenues—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7216	Secretary of HHS must submit list of technical amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7251(e)	Supplemental Funding for Substance Abuse—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7263	Additional requirements for representative payees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7271	Annual Report to Congress on SSI—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7272	Improvements to Disability Evaluation—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7273	Study of the Disability Determination Process—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7274	Study by GAO on impact of Amendments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7281 to 7287	National Commission on Future of Disability—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7291	Repeal of Maintenance of Effort for State SSI Supplement—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7302	Distribute child support collections to families off welfare first—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7303	Rights to notifications and hearings for those applying for services or a party to these actions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7344(b)	Extension of enhanced match and new funds matching funds for ADP development—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7345	Training and technical assistance, child support demonstrations—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7346	Changes in the annual report to Congress—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7351	National Child Support Guidelines Commission—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7354	Non-liability for depository institutions providing financial records to child support agencies—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(a): 454(C)(b) and (c)	Permissive fees and excess costs of enforcement. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7375(b)	Sense of Senate on how to collect fees—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7377	Sense of Senate on inability of non-custodial parents to pay child support—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7381	Grants to State for Access and Visitation Programs—Byrd rule (b)(1)(B): Increases the deficit and committee fails to meet its reconciliation instructions.
Sec. 7406	Information Reporting, requiring states to provide names to INS—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7411	Reductions in Federal Government Positions—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7412	75% reduction in Federal positions dealing with AFDC—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7413	Sense of Senate that reductions should come from Washington DC office—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7422	Establish National Goals for teenage pregnancy prevention—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7442	Sense of Senate on legislative accountability for unfunded mandates—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7443	Sense of Senate Regarding Enforcement of Statutory Rape—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7444	No prohibition on sanctioning an individual when testing positive for controlled substances—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7445	Abstinence Education set aside—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 7481	Sense of Senate on Cost of Living Adjustments—Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	FINANCE—REVENUES
Sec. 12401(f)	Requires the Secretary of Labor to implement a ''Business Awareness Program'' to educate and encourage business to benefit from the Work Opportunity Tax Credit. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 6039F(d)	Beginning with the phrase, ''notwithstanding any other provision of law...'' requires the Secretary of Treasury to publish in the Federal Register the names of expatriates. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec.12874(c)	Requires the trustees of the Combined Fund (coal industry retirees) to provide documents to contributors if requested. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Requires notices to charitable beneficiaries of charitable remainder trusts that a remainder has been created. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12705	Provides exceptions to the notification requirements (to charitable beneficiaries of the creation of or continuation of charitable remainders) if the Secretary determines it is not necessary for efficient administration of tax law. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 12878	Section 2878(e) authorizes the Secretary of the Treasury to prescribe regulations regarding Modified guaranteed contracts. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec.12904(a) (12)(D)Requiring written notice to each employee eligible to participate in certain qualified cash or deferred arrangements and matching contributions. Byrd rule (b)(1)(A): Produces no change in outlays or revenues..	
	GOVERNMENTAL AFFAIRS
	There are no extraneous provisions in this title.
	JUDICIARY
	There are no extraneous provisions in this title.
	LABOR AND HUMAN RESOURCES
Sec. 10002(c)(2)(C)	Indirect costs for direct loans may not exceed 50% of the section 458 funds and they may not be used for promotion the direct loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10002(g) p. 1422 lines 5-8	Sense of the Senate statement that the .85 fee to institutions should not be passed on to students. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10003(d) & (e)	Permits the development, and distribution an use of an electronic version of the free federal common application for by guaranty agencies and lenders. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (g)	Permits guarantors to use the funds from the federal payment of the Administrative Cost Allowance to pay for any means of monitoring the enrollment and repayment status of borrowers. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10005 (h)	Guaranty agencies are prohibited from using federal reserves for marketing, advertising, or promotion of the guaranteed loan program. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
Sec. 10007(a)(4)(A)(ii)	Provision regarding Sallie Mae and full faith and credit of the United States. Byrd rule (b)(1)(A): Produces no change in outlays or revenues.
	VETERANS' AFFAIRS
	Veterans' Affairs Committee reconciliation language contains no Byrd Rule Violation

Note: Prepared by SBC majority staff, October 25, 1995 (12:55 pm) and by the Staff of the Committee on the Budget, pursuant to Section 313(c) requiring a list of items considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E). The inclusion or exclusion of a provision shall not constitute a determination of extraneousness by the Presiding Officer of the Senate.

Mr. EXON. Mr. President, the chairman of the Budget Committee was kind enough to discuss with me in advance the list that he just submitted for the RECORD. I, in turn, have shared with him my view of which items in the bill violate the Byrd rule against extraneous matter in reconciliation.

There is a great deal of agreement on these two lists, but some differences persist. To make the RECORD more complete, I submit my list of extraneous provisions and ask unanimous consent that it be printed in the RECORD.

At the close of debate on the bill, after Senators and the Parliamentarian have had a full, fair chance to review these lists, I intend to raise an omnibus point of order under the Byrd rule against a large number of provisions that we have determined to be extraneous. I ask unanimous consent that my list be printed in the RECORD to give Senators the maximum amount of notice as to which provisions are under review for that purpose.

There being no objection, the list was ordered to be printed in the RECORD, as follows:

LIST OF BYRD RULE VIOLATIONS TO THE BALANCED BUDGET RECONCILIATION ACT OF 1995

(Prepared by the Democratic Staff of the Senate Budget Committee, October 25, 1995)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
	Title I		
	COMMITTEE: AGRICULTURE		
	Compliance: 1,5 yes; 7 no		
1113(b)(3)(B)	Creates a temporary quota for seed peanuts	313(b)(1)(A)	No budgetary impact.
1111(b)	Terminates Tree Assistance program	313(b)(1)(A)	No budgetary impact.
1113(c)	Provides for Sale, Lease or Transfer of Peanut quotas	313(b)(1)(d)	Savings are incidental.
1113(e)(2)	Makes available additional peanuts if market price exceeds 120% loan rate	313(b)(1)(A)	No budgetary impact.
1115	Savings adjustment to prorate payments to farmers if deficit targets aren't met	313(b)(1)(A)	No budgetary impact.
1116	Sense of the Senate regarding Ethanol	313(b)(1)(A)	No budgetary impact.
1201	Establishes Environmental Incentives Program		Ag title out of compliance—spends money.

BYRD RULE VIOLATIONS, RECONCILIATION 1996

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE: II		
	COMMITTEE: ARMED SERVICES		
	Compliance 1st Year: No; 5-Years: Yes; 7-Years: Yes		
7421a.(a)	Sale Required. The sale of the Elk Hills, CA site in the NPR.	313(b)(1)(E)	There is a loss of offsetting receipts in the outyears that is not offset with the title. Specifically, CBO estimates that selling the NPR will result in a loss of offsetting receipts in years 2003–05 of $1.02 billion. Thus, the provision produces revenue losses in years not covered by the budget resolution.
7421a.(e)	Treatment of State of California. Reservation of 7 percent of the sale of the Elk Hills site in the NPR to settle claims with the State of California.	313(b)(1)(A)	This provision amounts to California's price for waiving its claim to the land within the NPR. This 7 percent set-aside does not score because the spending is subject to appropriations action.
7421.a.(f)	Maintaining Elk Hlls Unit Production. Sets requirements for Elk Hills to maintain production till sale is complete.	313(b)(1)(A)	This provision provides no change in revenue or outlays and is thus extraneous.
7421a.(j)(3)	Notice to Congress. Establishes a sense of the Congress regarding the Secretary of the Energy's approval of the Elk Hills site in the NPR.	313(b)(1)(A)	As a sense of the Senate, this provision produces no changes in revenue or outlays and is thus extraneous.
7421a.(k)	Joint Resolution of Approval. Provides fast track authority for congressional approval of the sale of the Elk Hills site in the NPR.	313(b)(1)(A)	This provision does not produce any change in revenue or outlays and is thus extraneous.
7421.a(1)	Noncompliance with Deadlines. Requires the Secretary of Energy to notify Congress if the sale is delayed.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.a(m)	Oversight. Requires the Comptroller General to monitor the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(a)	Sale Required. The sale of reserves in the NPR other than that at Elk Hills, CA.	313(b)(1)(E)	There is a loss of offsetting receipts in the outyears beyond 2002 that is not offset within the title. Thus, the provision produces revenue losses in years beyond the years covered in the budget resolution.
7421.b.(b)	Administration of Sale. Applies subsections c, d, h, i, j, k, l, m, and n or section 7421.a. of this title to the sale of sites other than Elk Hills.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.
7421.b.(b)(C)	Joint Resolution of Approval. Provides fast track authority for congressional consideration of the sale.	313(b)(1)(A)	This provision produces no change in revenue or outlays and is thus extraneous.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995

Subtitle and Section	Subject	Budget Act Violation	Explanation
	TITLE III		
	COMMITTEE: BANKING, HOUSING, AND URBAN AFFAIRS		
	Compliance: Yes		
3002	Deposit Insurance Study, Requires Secretary of the Treasury to conduct a study on converting the FDIC into a self-funded deposit insurance system.	313(b)(1)(A)	Instituting a study does not have an impact on the deficit. (Not in cost estimate)
3001(d)	Merger of BIF and SAIF	313(b)(1)(A)	Has no impact on the deficit.
	TITLE IV		
	COMMITTEE: COMMERCE, SCIENCE, AND TRANSPORTATION		
	Compliance: Yes		
4002	Annual Regulatory Fees	313(b)(1)(A)	Authorizing regulatory fees has no impact on the deficit until after appropriations. (not in cost estimate)
4001(a)(C)(i)(ii)	Spectrum language p. 207, lines 2–23	313(b)(1)(A)	This language has no impact on spending.
4021	Limits on Coast Guard User Fees	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(a)	Oil Spill Recovery Institute	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4022(A)	Use of Section 1012 in Alaska	313(b)(1)(E)	Provision does not sunset and causes outlays beyond years covered by Reconciliation bill.
4033	Disaster Funding for Railroads	313(b)(1)(A)	This section clarifies procedures that allow the Secretary of Transportation to use LRFA for railroad disaster assistance. The section has no impact on the deficit. (not in cost estimate)
4034	Grade-crossing eligibility	313(b)(1)(A)	This section expands the list of activities eligible for LRFA and has no impact on the deficit. (not in cost estimate)
	TITLE V		
	COMMITTEE: ENERGY AND NATURAL RESOURCES		
	Compliance in 1, 5 and 7		
Subtitle A, Uranium Enrichment Corporation:			
5002	Statement of Purpose	(b)(1)(A)	Non-budgetary.
5004(d)(2) & (3)	Proceeds	(b)(1)(A)	Non-budgetary.
5013(a)(1)(B)	Low-Level Waste	(b)(1)(A)	Non-budgetary, requirement that DOE accept low-level waste from any operator of an enrichment facility.
5013(c)	Low-Level Waste	(b)(1)(A)	Non-budgetary, waiver of liability for State or Interstate Compact's requirement to accept low level nuclear waste from any enrichment facility.
Subtitle B, DOI:			
5100	California Land Directed Sale	Byrd 313(b)(1)(D)	Savings are merely incidental to the transfer of Federal land (Ward Valley) to the State of California for the purpose of creating a low-level radioactive waste site.
Subtitle C, ANWR:			
5202	Purpose and Policy	313(b)(1)(D)	Non-budgetary.
5206	Adequacy of 1987 EIS	313(b)(1)(A)	Extraneous; no budgetary impact. Overrides the impact assessment requirements of the National Environmental Policy Act (NEPA) by declaring that the 1987 environmental impact statement satisfies the requirements of NEPA.
5702(d), second sentence	Special Areas	313(b)(1)(A)	Non-budgetary, reporting requirements to Congress.
5212	Expedited Judicial Review	313(b)(1)(A)	Extraneous, no budgetary impact. Limits complaints seeking judicial review to 90 days after date of any regulation.
5213	Rights of way Requirements	313(b)(1)(A)	Extraneous, no budgetary impact. Overrides existing law (ANILCA's title XI) which delineates procedures for transportation rights of way within the Alaska refuges, including the ANWR.
5215(b)	New Revenues	313(b)(1)(A)	Non-budgetary, reporting requirements.
Subtitle D, Park Entrance Fees:			
5300(a)(3)	Fees	313(b)(1)(A)	Non-budgetary, authorization of appropriations.
5300(a)(10)	Fees	313(b)(1)(A)	Non-budgetary, report to Congress on fee collections.
5301	Challenge Cost-Share Agreements	313(b)(1)(A)	Non-budgetary, authorizes Secretary to enter into challenge cost-share agreements.
5302	Cost Recovery	313(B)(1)(A)	Non-budgetary, cost recovery for damage to National Parks resources.
5305(b)(2)	Allocation and Use of Fees	313(b)(1)(A)	Non-Budgetary, reporting requirements to Congress. (second sentence)

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
Subtitle E, Water Projects:			
5510(2)	Hetch Hetchy Dam	313(b)(1)(A)	Extraneous, no budget impact. Sets up fund subject to appropriations.
Subtitle F, Federal Oil and Gas Royalties:			
5509	Royalty In Kind	313(b)(1)(A)	Extraneous, no budgetary impact. Clarifies the Secretary's option to take royalty of oil and gas in kind.
5510	Royalty Simplification	313(b)(1)(A)	Extraneous, no budgetary impact. Requires Secretary to streamline royalty management requirements, and submit a report to Congress.
5512	Delegation to States	313(b)(1)(A)	Extraneous, no budgetary impact. Delegates certain auditing responsibilities to states.
5513	Performance Standard	313(b)(1)(A)	Extraneous, no budgetary impact. Changes the standards for assessing civil penalties.
Subtite H, Mining:			
5709	Use and Objectives of State Funds	313(b)(1)(A)	Extraneous, no budgetary impact. Stipulates how monies to states can be spent.
Part K: 5920	Radio and TV Site Communications Fees	313(b)(1)(A)	Extraneous, no budgetary impact. Enactment of this section would have no impact on receipts because the baseline already assumes that the BLM and the Forest Service would raise fees by this level beginning in 1996.
		TITLE VI	
		COMMITTEE: ENVIRONMENT & PUBLIC WORKS	
		Compliance in 5 and 7, not in 1	
Section 6002(c)	Rescission of appropriated demonstration projects	313(b)(1)(C)	These demonstration projects are not within EPW's jurisdiction.
		TITLE VII—SPENDING	
		COMMITTEE: FINANCE	
		Compliance: No in 1996 and 1996–2000	
Chap. 1	Medicare Choice Plans		
1895A(b)(1)(B)	Medical savings accounts	313(b)(1)(B)	Creates Medical Savings Accounts. Increases the deficit by $3.5 billion over 7 years.
1895A(c)(2)(B)	Special rule for end-stage renal disease	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(d)(3)	Report to the Congress on Medicare Choice	313(b)(1)(A)	Produces no change in outlays or revenues.
1895M(f)	Demonstration project on market-based reimbursement and competitive pricing.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(c)	Report on the temporary certification of coordinated care plans.	313(b)(1)(A)	Produces no change in outlays or revenues.
1895R(f)	Partial capitation demonstration	313(b)(1)(A)	Produces no change in outlays or revenues.
Chap. 2:	General provisions related to Part A		
7012(c)	Development National Prospective Payment Rates for Current Non-PPS Hospitals.	313(b)(1)(A)	Requires Secretary of HHS to develop a proposal and recommendations. Produces no change in outlays or revenues.
7013(c)	Hospital-specific adjustment for capital-related costs.	313(b)(1)(D)	Redistributes payments among hospitals. Merely incidental to deficit reduction.
7013(d)	Revisions of exceptions process under PPS	313(b)(1)(D)	Changes exceptions process. Merely incidental to deficit reduction.
7036	Medical review process	313(b)(1)(A)	Requires HHS to establish a medical review process to examine effects of provisions on extended care services. According to CBO, produces no change in outlays or revenues.
7037	Report by Prospective Payment Commission	313(b)(1)(A)	Requires ProPAC to submit a report on SNF services. Produces no change in outlays or revenues.
Chap. 3:	Provisions Relating to Part B		
7043(c)	Payments for clinical lab diagnosis services study and report.	313(b)(1)(A)	Requires HHS to prepare study of fee schedule for clinical labs. Produces no change in outlays or revenues.
7044(c)	Upgraded Durable Medical Equipment	313(b)(1)(A)	Produces no change in outlays or revenues.
7050	Physician supervision of nurse anesthetists	313(b)(1)(A)	Requires HHS to revise regulations on anesthesia services. Produces no change in outlays or revenues.
Chap. 4:	Provisions Relating to A and B		
7056	Treatment of Assisted Suicide	313(b)(1)(A)	Prohibits payments for treatment of assisted suicide. Produces no change in outlays or revenues.
7057	Administrative provisions	313(b)(1)(A)	Codifies current status of Indian health facilities and Christian Science Providers as Federally qualified health centers. Produces no change in outlays or revenues.
7061(a)	Report to ProPAC	313(b)(1)(A)	Requires PROPAC to submit an annual report to Congress on Home Health payment methodology. Produces no change in outlays or revenues.
Chap. 5:	Rural Areas		
7071	Medicare-dependent, small, rural hospital payment extensions.	313(b)(1)(B)	Re-institutes Medicare Dependent Hospital program. Costs $0.4 billion over 7-years.
7072	Medicare rural hospital flexibility program	313(b)(1)(B)	Designates critical access hospitals in rural areas. Costs $0.2 billion over 7-years.
7073	Rural Emergency Access Care hospitals	313(b)(1)(B)	Establishes new program for REACH. Costs $0.2 billion over 7-years.
7074	Additional payments for physicians Services furnished in shortage areas.	313(b)(1)(B)	Increases payments to rural, primary care physicians. Costs $0.4 billion over 7-years.
7075	Payments to physician assistants and nurse practitioners.	313(b)(1)(B)	Pays physician assistants and nurse practitioners 85% for outpatient settings. Costs $0.3 billion over 7.
7076	Demonstration projects for telemedicine	313(b)(1)(A)	Authorization for demonstration project grants for Telemedicine. Produces no change in outlays or revenues.
7077	ProPAC recommendations on urban Medicare dependent hospitals.	313(b)(1)(A)	Directs ProPAC to make recommendations on hospitals that have a high number of Medicare patients and patient days. Produces no change in outlays or revenues.
Chap. 6:	Health Care Fraud and Abuse Prevention		
7112	Establishment of minimum period of exclusion for certain individuals.	313(b)(1)(A)	Codifies current practice. Produces no change in outlays or revenues.
7116	Anti-kickback penalties	313(b)(1)(A)	Directs Secretary to study benefits of volume and combination benefits under Medicare Produces no change in outlays or revenues.
7121	Data Collection Program	313(b)(1)(B)	Requires HHS to establish a national fraud and abuse data collection program. Provision increases the deficit.
Chap. 7:	Other Provisions for Trust Fund Solvency		
7171	Eligibility Age for Medicare	313(b)(1)(A)	Raises eligibility age of Medicare from 65 to 67. Produces no change in outlays or revenues during 7-year period.
7173	Transfers of B to Part A	313(b)(1)(A)	Transfers premium and deductible savings to Part-A trust fund. Produces no change in outlays or revenues.
7175	Budget Expenditure Limitation Tool (BELT)	313(b)(1)(A)	Produces no change in outlays or revenues.
		TITLE VI	
		COMMITTEE: FINANCE—MEDICAID	
		Compliance: Not in 1, not in 5, in compliance in 7	
Subtitle B, 7191:			
2100(a)	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact. Statement of purpose.
2101	Discription of Strategic Objectives and Performance Goals.	313(b)(1)(A)	Extraneous, no budgetary impact. Lays out requirements for state plans including: (1) general description; (2) objectives and performance goals relating to childhood immunizations, infant mortality and standards of care; (3) factors states might consider in specifying objectives and goals; (4) performance measures.
2102(a)	Annual reports	313(b)(1)(A)	Extraneous, no budgetary impact. States are required to submit reports which include summaries of: expenditures and beneficiaries; utilizations; achievement of performance goals; program evaluations, fraud and abuse and quality control activities; administrative roles, and responsibilities, including organizational charts, costs, interstate compacts, and citations to state statutes; and inpatient hospital payments.
2102(a)	Special Rules	313(b)(1)(A)	Extraneous; no budgetary impact. Defines general categories of beneficiaries for use in State plans and reports.
2103	Periodic, Independent Evaluations	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to have an independent entity evaluate its Medicaid plan every three years.
2104	Description of Process for Medicaid Plan Development.	313(b)(1)(A)	Extraneous; no budgetary impact. Requires state plans to include a description of the process under which the plan is to be developed and implemented.
2105(a)	Consultation in Medicaid Plan Development	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to give public notice of, allow public inspection of, and consider public comments on state plans before submission. Does not apply to revisions. Specifies what is to be included in the notice, how the amendments may be described, where the notice may be published.
2105(b)	Advisory Committee	313(b)(1)(A)	Extraneous; no budgetary impact. Requires states to establish and maintain at least 1 advisory committee. Specifies issues on which states must consult with the advisory committee, and the geographic diversity of the advisory committee.
2106	Medicaid Task Force	313(b)(1)(A)	Extraneous; no budgetary impact. THe Secretary is to establish and provide administrative support for a Medicaid Task Force; membership is specified. An advisory group is to be established for the Task Force; the membership of the advisory group is specified.
2111(a)	Eligibility and Benefits	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must serve all political subdivisions, provide for making medical assistance available to any pregnant woman or child under the age of 12 whose family income does not exceed 100 percent of poverty and to any individual with a disability.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
2111(b)(1)	Elements Relating to Eligibility	313(b)(1)(A)	Extraneous; no budgetary impact. Plans are required to describe: limitations on eligibility; eligibility standards; methods of establishing and continuing eligibility and enrollment; the eligibility standards that protect the income and resources of a married individual who is living in the community and whose spouse is residing in an institution in order to prevent the impoverishment of a community spouse.
2111(b)(2–6)	Description of General Elements	313(b)(1)(A)	Extraneous; no budgetary impact. Plans are required to describe: the amount, duration and scope of health care services and items covered including differences among population groups; delivery method; under what circumstance fee-for-service benefits are furnished; cost-sharing if any; and utilization incentives.
2111(b)(7)	Support for Certain Hospitals	313(b)(1)(A)	Extraneous; no budgetary impact. Sets forth criteria for hospitals that are to be eligible for disproportionate share hospital (DSH) payments.
2111(c)	Immunizations for Children	313(b)(1)(A)	Extraneous; no budgetary impact. Requires plans to provide medical assistance for immunizations for children eligible for medical assistance in accordance with a schedule for immunizations established by the Health Department of the State.
2111(d)	Family Planning Services	313(b)(1)(A)	Extraneous; no budgetary impact. States shall provide prepregnancy planning services and supplies as specified by State.
2111(e)	Preexisting Condition Exclusions	313(b)(1)(A)	Extraneous; no budgetary impact. Prohibits States from denying coverage to eligible individuals on the basis of a preexisting condition. If a State allows a contractor to exclude coverage on the basis of a preexisting condition, the State must provide for such coverage through its Medicaid plan.
2111(f)	Mental Health Services	313(b)(1)(A)	Extraneous; no budgetary impact. A Medicaid plan shall not impose treatment limits or financial requirements on mental illness services which are not imposed on services for other illnesses or diseases. The plan may require pre-admission screening, prior authorization of services, or other mechanisms limiting coverage of mental illness services to services that are medically necessary.
2112	Set-asides For Population Groups	313(b)(1)(A)	Extraneous; no budgetary impact. State plans are required to provide 85 percent of amount spent in FY 1995 on low-income families; low-income elderly; and low-income disabled people. Excludes assistance provided to certain aliens. Includes DSH.
2112(d)	Use of Residual Funds	313(b)(1)(A)	Extraneous; no budgetary impact. Any funds not required to be expended under the set-asides may only be expended for: medical assistance for eligible low-income individuals, medically-related services, and administration.
2113	Premiums and Cost-sharing	313(b)(1)(A)	Extraneous; no budgetary impact. States may not impose cost-sharing on pregnant women and children under 100 percent of poverty for primary or preventive care under the Medicaid plan, unless the charge is nominal. States may impose cost-sharing to discourage the inappropriate use of emergency medical services. State may impose premiums and cost-sharing differentially.
2114	Description of Process for Developing Capitation Payment Rates.	313(b)(1)(A)	Extraneous; no budgetary impact. If a state plans to contract with a capitated health care organization, the plan must contain descriptions of the actuarial science that will be used to analyze health care expenditures and other data, the general qualifications required by the state, how data will be disseminated to contractors, and how enrollees will be identified. States must provide public notice about capitation rates unless the information is designated as proprietary and seek public comment. This section contains definitions.
2115	Construction	313(b)(1)(A)	Extraneous; no budgetary impact. Outlines state flexibility in benefits, provider payments, geographical coverage and selection of providers. Says that states do not have any specific responsibility to beneficiaries or providers for particular services or payments or for consistent benefits and payments throughout a state. Provides flexibility for contracting with managed care providers or case management services.
2116	Causes of Action	313(b)(1)(A)	Extraneous; no budgetary impact. States that no applicants, beneficiaries, providers or health care plans has a right to sue if a State fails to comply with this law or with the provisions of a Medicaid plan. Provides that no person shall be excluded from participation in any program funded under this title on the ground of sex or religion. Outlines procedures when State is found to discriminate. States that nothing in this subsection may be construed as affecting any actions brought under State law.
2117	Treatment of Income and Resources	313(b)(1)(A)	Extraneous; no budgetary impact. Spousal impoverishment. Includes definitions.
2121	Allotment of Funds Among States	313(b)(1)(B)	Extraneous; costs. This section contains the pool of available funds. The section outlines procedures for determining a state's allotment. It provides for allowing states to draw down future allotments or carry over 1996 funds. It sets out procedures for notifying state of their allotments and calls for a GAO review of the allotments. This section also contains definitions.
2122	Payments to States	313(b)(1)(A)	Sets forth payments to States for medical assistance, medically related services, and administrative expenses, in relation to the state's Federal medical assistance percentage (FMAP), which are defined. Makes provisions for overpayments. Contains restraints on provider-related donations and health care-related taxes; includes a waiver for broad-based health care taxes not related to payments. Contains definitions. Includes treatment of the Territories and Indian Health programs.
2122(g)	Authority to Use Portion of Payment for Other Purposes.	313(b)(1)(A)	Extraneous; no budgetary impact. Superwaiver. Allows state to use up to 30 percent of the grant during a fiscal year to carry out a State program pursuant to a waiver granted under Section 1115 involving the new Temp. Assistance block grant, MCH block grants, SSI, Medicare, Title XX (SSBG) and the Food Stamp program. States required to approve or disapprove waiver within 90 days and State are to encourage waivers.
2123	Limitation on Use of Funds; Disallowance	313(b)(1)(A)	Extraneous; no budgetary impact. No payments are to be used for providers excluded from participation under other programs including MCH block grant, Medicare and Title XX. Defines treatment of third party liability. Medicaid is the secondary payer to any other Federal operated or financed health care program. No payments shall be made to a state for medical assistance furnished to an alien who is not lawfully admitted for permanent residence, except for emergency services, if the alien otherwise meets the eligibility requirements for Medicaid and are not related to organ transplants.
2123(g)	Limitation on Payment for Abortions	313(b)(1)(A)	Extraneous; no budgetary impact. No funds are to be made to a State for any amount expended to pay for any abortion or to assist in the purchase in whole or in part of health benefit coverage that includes coverage or abortion. Does not apply in the case of rape or incest or if the woman's life is in danger.
2123(h)	Treatment of Assisted Suicide	313(b)(1)(A)	Extraneous; no budgetary impact. No payments made to pay for or assist in the purchase in whole or in part of health benefit coverage that includes payment for any drug, biological product or service which was furnished for the purpose of causing, or assisting in causing, the death, suicide, euthanasia, or mercy killing of a person.
2123(i)	Unauthorized Use of Funds	313(b)(1)(A)	Extraneous; no budgetary impact. No payments shall be used to purchase or improve land or construct or remodel buildings, to pay room and board except when provided as part of a temporary, respite care, to provide educational services without regard to income, or to provide vocational rehabilitation or other employment and training services available through other programs.
2124	Grant Program for Community Health Centers and Rural Health Clinics.	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary is to set aside 1 percent of the pool amount to be used for grants for primary and preventive health care services at rural health clinics and Federal qualified health centers.
2131	Use of Audits to Achieve Fiscal Integrity	313(b)(1)(A)	Extraneous; no budgetary impact. Requires annual audits of State expenditures. Requires states to adopt and maintain fiscal controls, accounting procedures, and data processing safeguards which are consistent with generally accepted accounting principles.
2132	Fraud Prevention Program	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have programs to detect and prevent fraud and abuse. Includes program requirements. Requires States to report information about providers excluded from program to the Secretary and State medical licensing board.
2133	Information Concerning Sanctions Taken by State Licensing Authorities against Health Care Practitioners and Providers.	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have reporting systems about proceedings against providers.
2134	Medicaid Fraud Control Units	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have Medicaid fraud units. Organization of unit is specified. It is to provide for collection of overpayments.
2135	Recoveries from Third Parties and Providers	313(b)(1)(A)	Extraneous; no budgetary impact. Each State plan shall take reasonable steps to ascertain the legal liability of third parties to pay for care and services under the plan. Provides protections to beneficiaries. Provides penalties in the form of reductions of payments to a person who violates this section.
2135(f)	Required Laws Relating to Medical Child Support	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to have laws that prohibit insurers from denying enrollment of a child under the health coverage of a parent on the ground that the child was born out-of-wedlock, is not claimed on the parent's income tax return, or does not reside with the parent or in the insurer's service area. Contains further provisions to assure access to health insurance for kids with divorced parents.
2135(g)	Estate Recoveries and Liens permitted	313(b)(1)(A)	Extraneous; no budgetary impact. States may take appropriate action to recover from an individual or estate any amounts paid as medical assistance to or on behalf of the individual under the plan including through the imposition of liens against property or the estate. A state may not impost a lien on the principal residence of moderate value or the family farm owned by the individual as a condition of the spouse of that individual receiving long term care.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
2136	Assignments of Rights of Payment	313(b)(1)(A)	Extraneous; no budgetary impact. States may require as a condition of eligibility that individuals: assign to the State any rights to payment for medical care from any third party; cooperate in establishing paternity if the person is a child born out of wedlock and in obtaining support payments for himself and such a child unless the individual is a pregnant woman or is found to have good cause for refusing.
2137	Quality Assurance Standards for Nursing Facilities	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to establish nursing home standards. Provides procedures for when a State determines that a nursing home previously certified for participation no longer meets the requirements.
2138	Other Provisions Promoting Prgm Integrity	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to make public findings of any survey of any health care facility or organization. Record keeping of services provided to individuals required.
2151	Submittal and Approval of Medicaid Plans	313(b)(1)(A)	Extraneous; no budgetary impact. States are required to submit plans that meet the requirements of this title as a condition of receiving funding.
2152	Submittal and Approval of Plan Amendments	313(b)(1)(A)	Extraneous; no budgetary impact. States may amend their plan at any time. States must provide public notice of any amendments that eliminate or restrict eligibility or benefits.
2153	Sanctions for Substantial Noncompliance	313(b)(1)(A)	Extraneous; no budgetary impact. Secretary is required to review plans and amendments promptly. The Secretary must notify a State within 30 days if its plan substantially violates a requirement of this title and will issue an order that the plan is not to become effective. If upon finding the administration of the plan to be in violation, after notice and opportunity for a hearing, the Secretary shall order remedy. Provides for State response, corrective action, review, failure to respond, judicial hearing.
2154	Secretarial Authority	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary and the State can negotiate a satisfactory resolution to any dispute concerning the approval of a Medicaid plan.
2171	Definitions	313(b)(1)(A)	Extraneous; no budgetary impact.
2172	Treatment of Territories	313(b)(1)(A)	Extraneous; no budgetary impact. The Secretary may waive certain requirements for the Territories.
2173	Descriptions of Treatment of Indian Health Programs.	313(b)(1)(A)	Extraneous; no budgetary impact. State plans must include provisions made for any Indian health programs operated under the plan.
7192	Medicaid Drug Rebate Program	313(b)(1)(A)	Extraneous; no budgetary impact. No payment shall be made to a state for covered outpatient drugs unless the manufacturer has entered into a Medicaid rebate agreement with the Secretary. States are not required to participate in the Medicaid rebate agreement.
7193	Waivers	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States with Section 1115 waivers to opt to continue to operate such a waiver, and to continue to receive funding under the waiver, as long as it does not exceed funding granted under this Title. If states opt to terminate a waiver, they are held harmless for accrued cost neutrality liabilities.
7194	Children with Special Health Care Needs	313(b)(1)(A)	Extraneous; no budgetary impact. Authorization of appropriations. The Secretary is required to develop a national classification system to identify children with special health care needs. The Secretary is allowed to make grants to not more than 5 States to conduct 5-year demonstration projects to test the reliability of the classification system, develop methods of assuring quality care for children with special needs, provide for methods to identify these children. These projects will develop adequate capitation rates for these children.
7195	CBO Reports	313(b)(1)(A)	Extraneous; no budgetary impact. CBO is to prepare an annual analysis of the effects of these amendments on the health insurance status of children, retirees, and the disabled and to report by May 15.
	Title VII		
	COMMITTEE FINANCE—WELFARE AND OTHER		
	Compliance: Not in 1, not in 5, in compliance in 7		
	Block Grants for Temporary Assistance for Needy Families		
Subtitle C, Under 7201:			
401	Purpose	313(b)(1)(A)	Extraneous; no budgetary impact.
402	Eligible States; State Plan	313(b)(1)(A)	Extraneous; no budgetary impact. Requires States to have a written plan and to make the plan available to the pacific.
403	Payments to States and Indian Tribes	313(b)(1)(B)	Extraneous; costs. This section establishes the block grant.
403(a)(2)(C)	Notification	313(b)(1)(A)	Extraneous; no budgetary impact. Requires Secretary to notify the State 3 months in advance about the amount a State's grant will be reduced to pay for the program for Indians in that State.
403(a)(3)	Supplemental Grant for Population Increases in Certain States.	313(b)(1)(B)	Extraneous; costs. Provides additional grants to States with higher population growth and average spending less than the national average.
403(b)(2)	Treat Interstate Immigrants Under Rules of Former State.	313(b)(1)(A)	Extraneous; no budgetary impact. A State may apply to a family some or all of the rules, including benefit amounts, or the program operated by the family's former state if the family has resided in the current state less than 12 months.
403(b)(3)	Authority to Reserve Certain Amounts for Assistance	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States to reserve for assistance or child care.
403(b)(4)	Authority to Operate Employment Placement Program.	313(b)(1)(A)	Extraneous; no budgetary impact. Allows States to make payments or provide vouchers to State-approved public and private job placement agencies that provide employment placement services to people who receive assistance.
403(c)	Timing of Payments	313(b)(1)(A)	Extraneous; no budgetary impact. Allows for quarterly installments.
403(d)	Federal Loan Fund for State Welfare Programs	313(b)(1)(A)	Extraneous; CBO states in a footnote that under the rules of credit reform this does not score. Establishes a $1.7 billion ''rainy day'' revolving fund. States must pay back loans with interest.
403(e)	Indian Tribes that Receive JOBS Funds	313(b)(1)(B)	Extraneous; costs. Grant for Indian tribes to maker work activities available.
403(f)	Job Placement Performance Bonus	313(b)(1)(B)	Extraneous; cost. Establishes a bonus fund to reward States for high job placement rates. Paid for out of totals.
403(h)	Contingency Fund	313(b)(1)(B)	Extraneous; costs. Provides $1 billion for matching grants to States with high unemployment. Requires 100 percent maintenance of effort.
404(c)(3)(F) Provision in parens lines 8–10.	Vocational Educational Training	313(b)(1)(A)	Extraneous; does not score. Limits States from counting more than 1 year of vocational education as a work activity.
404(c)(4)	Limitation on Vocational Education	313(b)(1)(A)	Not more than 25 percent of adults engaged in work are allowed to meet the work requirement through vocational educational training.
404(d)	Penalties Against Individuals	313(b)(1)(A)	States are required to reduce the amount of assistance payable to a family if an adult refuses to engage in work activities.
404(f)	Sense of the Congress	313(b)(1)(A)	Extraneous; does not score. States are encouraged to assign priority to requiring adults in 2-parent families and adults in single parent families that include older preschool or school-age children to be engaged in work activities.
404(g)	Encouragement to Provide Child Care Services	313(b)(1)(A)	Extraneous; does not score. States may treat individuals providing day care to other participating individuals as meeting the work requirements.
405	Requirements and Limitations	313(b)(1)(A)	Extraneous; does not score. Requires States to enter into personal responsibility contract with families receiving assistance.
405(b)(1)	No Assistance for More Than Five Years	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance for more than 5 years on a cumulative basis; can opt to provide it for less than 5 years.
405(d)	Denial of Assistance for Fugitive Felons and Probation and Parole Violators.	313(b)(1)(A)	Extraneous; does not score. Fugitive felons, those on probation and in violation of parole are not eligible for assistance. Allows for exchange of information with law enforcement officials for purposes of enforcing this section.
405(e)	State Option to Require Assignment of Support	313(b)(1)(A)	Extraneous; does not score. States may require that individuals assign to the State any rights to support from any other person.
405(f)	Denial of Assistance	313(b)(1)(A)	Extraneous; does not score. States may not provide assistance to a family with respect to any minor who is absent for 45 days, or, at State option, not less than 30 and not more than 90 consecutive days. Allows for good cause exceptions.
406(a)	Promoting Responsible Parenting	313(b)(1)(A)	Extraneous; does not score. Series of findings.
406(b)	State Option to Deny Assistance for Out-of-Wedlock Births to Minors.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a child born out-of-wedlock to an individual who has not attained 18 years of age, or for the individual.
406(c)	State Option to Deny Assistance For Children Born to Families Receiving Assistance.	313(b)(1)(A)	Extraneous; does not score. States may deny assistance for a minor child who is born to a recipient of assistance.
406(d)(1)	Requirement That Teenage Parents Live in Adult-Supervised Settings.	313(b)(1)(A)	Extraneous; does not score. If a State provides assistance to an unmarried teenage mother, that individual must reside with a parent, guardian, or other adult relative.
406(d)(2)	Exception	313(b)(1)(A)	Extraneous; does not score. Exception is provided if the individual lives in an adult-supervised living arrangement (such as a second chance home.) States can help locate such an arrangement.
406(d)(3)	Assistance to States in Providing or Locating Adult-Supervised Supportive Living Arrangement for.	313(b)(1)(B)	Extraneous; costs. Provides $25 million in grants to States for supportive living arrangements such as second chance homes.
406(e)	Requirement that Teenage Parents Attend High School or Equivalent Training Program.	313(b)(1)(A)	Extraneous; does not score. State shall not provide assistance or, at State option, shall reduce assistance for someone who has not completed high school and is not in school or an approved alternative educational or training program.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
406(f)	Grant Increased to Reward States That Reduce Out-of-Wedlock Births.	313(b)(1)(B)	Extraneous; costs. Provides additional funds to States that reduce out-of-wedlock births by at least 1 percent below 1995 levels, and whose rates of abortion do not increase. Secretary can deny the funds if the State changes methods of reporting data.
406(g)	State Option to Deny Assistance in Certain Situations.	313(b)(1)(A)	Extraneous; no cost impact. Nothing should be construed to restrict the authority of a State to limit assistance if the limitation is not inconsistent with the provisions of this part.
408	Audits	313(b)(1)(A)	Extraneous; no cost impact. Requires annual audits by an approved entity which must be submitted to the Secretaries of Treasury and HHS.
409	Data Collection and Reporting	313(b)(1)(A)	Extraneous; no cost impact. Secretary is required to develop a quality assurance system of data collection and reporting. Data described.
410	Research, Evaluations, and National Studies	313(b)(1)(B)	Extraneous; overall costs. Requires research on benefits, effects and costs of operating different State programs, including time limits. Secretary may assist States in developing and evaluating innovative approaches.
410(d)	Annual Ranking of States and Review of Most and Least Successful Work programs.	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to rank states in order of their success in placing recipients into long-term private sector jobs, reducing welfare caseload, and diverting individuals from formally applying.
410(e)	Annual Ranking of States and Review of Issues Relating to.	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to rank states on the basis of out-of-wedlock rates relative to live births and changes in the out-of-wedlock ratio.
411	Study by the Census Bureau	313(b)(1)(A)	Extraneous. Requires Census to expand the Survey of Income and Program Participation to allow evaluation on a random national sample of recipients. ''Secretary shall appropriate from funds not otherwise appropriated.''
412	Waivers	313(b)(1)(B)	The section as a whole scores because of 412(b)(3), but as a cost. Allows States to continue to operate under current waivers.
412(b)(3)	Hold Harmless	313(b)(1)(B)	Extraneous; costs. States who request to terminate a waiver will be held harmless for accrued cost neutrality liabilities.
413	State and County Demonstration	313(b)(1)(B)	Extraneous; costs. Allows for demonstrations of innovative and effective program designs.
414	Direct Funding and Administration by Indian Tribes	313(b)(1)(B)	Extraneous; costs. Provides funding to Indian tribes for administration of grants. Requires tribes to submit plans with minimum work requirements. Provides for emergency assistance, accountability, penalties, and data collection.
415	Assistant Secretary for Family Support	313(b)(1)(A)	Extraneous; no cost impact. Program is to be administered by such a Secretary.
416	Limitation on Federal Authority	313(b)(1)(A)	Extraneous; no cost impact. HHS and Treasury may not regulate the conduct of the States except to the extent expressly provided in this part.
417	Appeal of Adverse Decision	313(b)(1)(A)	Extraneous; no cost impact. Lays out procedures for appealing an adverse decision of the Secretary.
418	Performance Bonus and High Performance Bonus	313(b)(1)(B)	Extraneous; costs. 5 States with highest percentage performance improvement receive a bonus. Note: this is paid for with previous year's penalties so some might claim it is deficit neutral. However, it is a separate and discrete section.
419	Amounts for Child Care	313(b)(1)(B)	Extraneous; costs. Provides current funding plus $3 billion over 5 years for grants to states for child care. Provides for distribution of funds and administration of programs.
420	Eligibility for Child Care Assistance	313(b)(1)(A)	Extraneous; no cost impact. Allows states to determine who is eligible for child care assistance.
7202	Services Provided by Charitable	313(b)(1)(A)	Extraneous; no cost impact. Allows states to provide services through contracts with charitable, religious, or private organizations.
7206	Development of Prototype of Counterfeit-resistant Soc. Sec. Card.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of appropriations.
7207	Disclosure of Receipt of Fed Funds	313(b)(1)(A)	Extraneous; no cost impact.
7208	Modifications to the Job Opportunities for Certain Low-Income Individuals program.	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7209	Demonstration Projects for School Utilization	313(b)(1)(A)	Extraneous; no cost impact. Authorization of Appropriations.
7211	Parental Responsibility Contracts	313(b)(1)(A)	
7212	Expenditure of Fed Funds in Accordance with Laws and Procedures Applicable to Expenditure of State Funds.	313(b)(1)(A)	
Subtitle D, SSI:			
7251(e)	Supplemental Funding for Alcohol and Substance Abuse Treatment Programs.	313(b)(1)(B)	Extraneous; costs. $100 million for treatment.
7271	Annual Report on SSI	313(b)(1)(A)	Extraneous; no cost impact. Requires Secretary to prepare an annual report describing the program, providing historical data, and making projections for the future.
7273	Study of Disability Determination	313(b)(1)(A)	Extraneous; no cost impact.
Chapter 4, 7282–7	Nat'l Commission on Future of Disability	313(b)(1)(A)	Extraneous; no cost impact.
Chapter 5	State Supplementation Programs	313(b)(1)(D)	Extraneous; merely incidental. Repeals Maintenance of Effort requirements applicable to Optional State programs for supplementation of SSI. CBO is unable to estimate savings, but says they will be small. Most savings will accrue to the states.
Chapter 6, 7295	Eligibility for SSI Benefits Based on Soc. Sec. Retirement Age.	313(b)(1)(A)	Extraneous; no cost impact within the 7-year budget window.
Subtitle E, Child Support:			
Sec. 7301	State Obligation to Provide Child Support Enforcement Services.	313(b)(1)(B)	Extraneous; costs.
Sec. 7302	Distribution of Child Support Collections	313(b)(1)(B)	Extraneous; costs.
Sec. 7303	Rights to Notification/Hearings	313(b)(1)(A)	Extraneous; no cost impact. Establishes procedures to assure parties receive notifications and have access to hearings.
Sec. 7304	Privacy Safeguards	313(b)(1)(A)	Extraneous; no cost impact. Establishes a State plan requirement to protect against unauthorized use of information.
7341(a)(2)(b)	Performance-Based Incentives and penalties	313(b)(1)(A)	Extraneous; no budgetary impact. Orders the Secretary to develop a formula for the distribution of incentive payments.
7344	Automated Data Processing Requirements (O&M)	313(b)(1)(B)	Extraneous; costs. Requires States to have a single system in accordance with this section's provisions.
7344	Automated Data Processing Development	313(b)(1)(B)	Extraneous; costs. Creates a federal matching rate for development costs of automated systems.
7345(a)(j)	Technical Assistance. For training federal and state staff, R&D programs, and special projects.	313(b)(1)(B)	Extraneous; costs. This section appropriates 1% of the amount paid to the U.S. in the previous fiscal year pursuant to 475(a).
7351	National Child Support Guidelines Commission	313(b)(1)(A)	Extraneous; no budgetary impact. This section creates a Commission to establish guidelines for a national child support policy.
7352	Simplified Process for Review of Child Support Orders.	313(b)(1)(B)	Extraneous; costs. This section lists procedures the State may employ to review and adjust each support order.
Ch. 7. Sec. 7369	State Law Authorizing Suspension Licenses	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec.	Denial of Passports for Nonpayment of Child Support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec. 7371	International Child Support Enforcement	313(b)(1)(A)	Extraneous; no budgetary impact. Gives Secretary of State authority to negotiate agreements in foreign nations to enforce child support laws.
Ch. 7. Sec. 7375(b)	Sense of the Senate. Regarding how states can collect enforcement costs.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 7. Sec. 7377	Sense of the Senate. Regarding noncustodial parent's inability to pay child support.	313(b)(1)(A)	Extraneous; no budgetary impact.
Ch. 8. Sec. 7379	Enforcement of Orders for Health Care Coverage	313(b)(1)(B)	Costs. This provision obligates states to provide services.
Ch. 9. Sec. 7381	Grants to States for Visitation	313(b)(1)(B)	Extraneous; costs. This provision requires the Administration for Children and Families to make grants to States so that parents can visit their children.
Subtitle F, Noncitizens: 7406	Information Reporting	313(b)(1)(A)	Extraneous; no cost impact. Requires states to make quarterly reports with the names and addresses of individuals known to be unlawfully in the US.
Subtitle G, Add'l Provisions Relating to Welfare			
Chapter 1—Reductions in Federal Positions:			
7411–3	Reductions in Federal Bureaucracy	313(b)(1)(A)	Extraneous; no direct spending impact. Reduction is on the discretionary side of the budget.
7422	Establishing Nat'l Goals to Prevent Teenage Pregnancies.	313(b)(1)(A)	Extraneous; no spending impact. Requires the Secretary to establish and implement a strategy for preventing out-of-wedlock teenage pregnancies. Requires a report to Congress.
Chapter 4:			
7441	Exemption of Battered Individuals from Certain Requirements.	313(b)(1)(B)	Extraneous; costs. Exempts from the provisions of this Subtitles D–F any individual who has been battered or subjected to extreme cruelty, if the application of the provision would endanger the individual.
7442	Sense of the Senate on Legislative Accountability for unfunded Mandates.	313(b)(1)(A)	Extraneous; no cost impact. Sense of the Senate that prior to acting on the conference report on welfare, CBO shall prepare an analysis to include estimates of costs to States of meeting the work requirements, the resources available to the States to meet the requirements, and the amount of additional revenues needed to meet the work requirements.
7443	Sense of the Senate Regarding Enforcement of Statutory Rape Laws.	313(b)(1)(A)	Extraneous; no cost impact. SoS that State and local jurisdictions should aggressively enforce statutory rape laws.
7444	Sanctioning for Testing Positive for Controlled Substances.	313(b)(1)(A)	Extraneous; no cost impact. Allows states to sanction people who test positive for illegal substances.

EXTRANEOUS PROVISIONS, RECONCILIATION 1995—Continued

Subtitle and Section	Subject	Budget Act Violation	Explanation
7445	Abstinence Education in Welfare Reform Legislation	313(b)(1)(A)	Extraneous; no direct spending impact. Authorization of appropriations.
Subtitle J, COLAs: 7481	SoS Regarding Corrections of Cost of Living Adjustments.	313(b)(1)(A)	Extraneous; no direct spending impact. Finds that the CPI overstates the cost of living in the US, and that the overstatement undermines the equitable administration of Federal benefits. Expresses the Sense of the Senate that Federal law should be corrected to accurately reflect future changes in the cost of living.
		TITLE X	
		COMMITTEE: LABOR AND HUMAN RESOURCES	
		Compliance: Yes	
§ 10002(c)(1) ''(a)(2)(C)''	Participation of Institutions and Administration of Loan Programs, Limitation on Certain [administrative] Expenses.	313(b)(1)(A)	Total administrative funds are fixed in 1002(c)(1) ''(a)(1)(A)'', therefore the limitation on indirect expenses and the use of funds for promotion does not score.
§ 10002(g) p. 15, lines 14–16	Participation of Institutions and Administration of Loan Programs, School Origination Payment, ''Sense of Senate'' provision.	313(b)(1)(A)	A Sense of the Senate statement, that a fee shall not be charged to students in the form of increase tuition, can not be considered a term or condition.
§ 10003(d)	Loan Terms & Conditions, Use of Electronic Forms	313(b)(1)(A)	Permitting development of forms does not score. [Not in cost estimate.]
§ 10003(e)	Loan Terms & Conditions, Application for Part B Loans Using Free Federal Application.	313(b)(1)(A)	Clarifying use of electronic forms does not score. [Not in cost estimate.]
§ 10005(a)	Amendments Affecting Guarantee Agencies, Use of Reserve Funds to Purchase Defaulted Loans.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(e)	Amendments Affecting Guarantee Agencies, Reserve Fund Reforms.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
§ 10005(g)	Amendments Affecting Guarantee Agencies, National Student Loan Clearinghouse.	313(b)(1)(A)	Permitting authority to use clearinghouse is not a term and condition. [Not in cost estimate.]
§ 10005(h)	Amendments Affecting Guarantee Agencies, Prohibition Regarding Marketing, Advertising, and Promotion.	313(b)(1)(A)	Only recovery of reserves scores. [Not in cost estimate.] Not term or condition of § 10005(b), (c), (d), or (f).
Title XI	Veterans' Affairs	310(c)	Out of compliance in 1st year (1996).
12104	Distribution to collectibles	313(b)(1)(A)	No budgetary impact.
12114	Changes to Merchant Marine Act	313(b)(1)(C)	Jurisdiction.
12213	Allows states to establish standards for long term care policies.	313(b)(1)(A)	No budgetary impact.
12401	Requires Secretary of Labor to implement a program to encourage small businesses to find qualified employees.	313(b)(1)(A)	No budgetary impact.
12421	Extends expedited refund of excise tax paid regarding ethanol.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12431	Exempts Alaska from diesel dyeing requirements	313(b)(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as a $1 million loss over seven years.
12501 to 12510	Taxpayer Bill of Rights 2	313(b0(1)(D)	Merely incidental budgetary impact. Joint Tax Committee scores as losing $20 million over seven years.
12702	Allows tax exempt organizations to accept ''qualified sponsorship payments'' without being subject to the unrelated business income tax.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12703	Exempts agriculture and horticulture organizations from unrelated business income tax on associate dues of less than $100.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12705	Provides exceptions to the notification 313(b)(1)(A) requirements to beneficiaries of charitable remainder trusts.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12706	Allows football coaches retirement plan to be considered a multi-employer plan under ERISA.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12822	Provides that the rollover of gain on the sale of a home cannot be elected by a nonresident alien.	313(b)(1)(D)	Merely incidental budgetary impact. Join Tax Committee scores as losing less than $500,000 over seven years.
12874	Requires the trustees of the Combined Fund to provide documents to contributors.	313(b)(1)(A)	No budgetary impact.
12875	Clarifies that newspaper carriers are independent contractors.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12876	Allows bank common trust funds to transfer assets to regulated investment trusts.	313(b)(1)(A)	No budgetary impact.
12901	Repeal of family aggregation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being ''considered in other provisions.''
12903	Changes the minimum participation rules for qualified pension plans.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12931	Clarifies when individuals are ''leased'' employees.''	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12932	Eliminates special aggregation rules for pension plans maintained by unincorporated employers.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12935	Allows government pensions to pay higher benefits	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12937	Creates a special rule for contributions on behalf of disabled employees.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12938	Allows rural cooperative plans to make distributions to participants after the attainment of age 59½.	313(b)(1)(b)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12940	Provides that for purposes of the general nondiscrimination rules that the Social Security retirement age is a uniform retirement age.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as being ''considered in other provisions.''
12941	Clarifies that 403b plans for tribal governments are not disqualified because the contract was purchased on behalf of employees who are not employees of educational organizations.	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''
12951 to 12968	Creates special rules for church retirement plans	313(b)(1)(A)	No budgetary impact. Joint Tax Committee scores as ''negligible.''

MORNING BUSINESS

Mr. GRAMS. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 2 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ADVISORY COMMISSION ON INTERGOVERNMENTAL RELATIONS

Mr. THOMAS. Mr. President, I am honored to serve as a member of the Advisory Commission on Intergovernmental Relations [ACIR]. In this era of ''new federalism,'' the government must create a partnership with state and local governments that is based on balanced, decentralized decision making. These governments have been the laboratories for change for the last 20 years. A streamlined and more flexible intergovernmental system will offer significant opportunities for state and local governments to develop more innovative and cost effective methods of delivering programs and services. State and local governments are now ready to rise to the challenges of this new era in history—the Information Age—where experimentation and local control are needed.

For example, as this Congress moves to balance the budget and restore fiscal responsibility and accountability at the federal level, it cannot do so on the backs of state and local governments. My involvement in drafting Public Law 104–4, the Unfunded Mandates Reform Law, was an effort to relieve this burden. As a former Wyoming state legislator, I am well aware of the hardships the federal government places on states and localities.

I look forward to working with the other members of the ACIR in implementing the unfunded mandates reform law and sharing with my Senate colleagues the effects of federal policy making on state and local governments. Together, we can usher in a new era of government and restore federalism as the founding fathers intended over 200 years ago.